

2002

The Freedom to Spend: The Case for Cash-Based Public Assistance

Martha B. Coven

Follow this and additional works at: <https://scholarship.law.umn.edu/mlr>



Part of the [Law Commons](#)

Recommended Citation

Coven, Martha B., "The Freedom to Spend: The Case for Cash-Based Public Assistance" (2002). *Minnesota Law Review*. 1899.
<https://scholarship.law.umn.edu/mlr/1899>

This Article is brought to you for free and open access by the University of Minnesota Law School. It has been accepted for inclusion in Minnesota Law Review collection by an authorized administrator of the Scholarship Repository. For more information, please contact lenzx009@umn.edu.

The Freedom to Spend: The Case for Cash-Based Public Assistance

Martha B. Coven[†]

CONTENTS

INTRODUCTION	847
I. PUBLIC ASSISTANCE IN AMERICA	851
A. The Current State of Public Assistance	852
B. Proposals for Reform	865
II. THE COST-EFFECTIVENESS ARGUMENT FOR	
CASH TRANSFERS	870
A. The Economist's Case for Cash	870
B. When Luxuries are Basics	874
C. The Variability of Preferences	882
D. Limitations and Practical Constraints	885
E. Administrative Savings	888
III. THE HUMAN DIGNITY ARGUMENT FOR	
CASH TRANSFERS	890
IV. RESPONSES TO COMMON OBJECTIONS	896
CONCLUSION	909

INTRODUCTION

I remember going on a field trip at school, where everyone was supposed to pay five dollars. I had to bring in a five-dollar food stamp. The other kids just laughed and laughed.

– Yale Law School student, February 2001

[†] The Author wishes to thank Anne Alstott for her thoughtful comments throughout the development of this Essay, as well as many others who helped refine the arguments presented here, most particularly Stacy Beck and Paul Frick. The author also wishes to acknowledge the helpful editorial assistance provided by Mona Peterson Rosow and the staff of the *Minnesota Law Review*. The views expressed are solely those of the author and are not necessarily endorsed by the Center on Budget Policy and Priorities.

Policymakers seeking to reduce poverty through some kind of public assistance for lower-income people face a number of critical program design questions. In recent years, the issue dominating public debate in the United States has been how to avoid work disincentives. As a result, with the exception of the elderly and the severely disabled, nearly everyone is now expected to work in order to receive many types of public assistance. The Earned Income Tax Credit (EITC), which transfers cash through the tax code to lower-income people with wage earnings, has become a greater source of federal dollars for lower-income families than traditional welfare programs like Temporary Assistance for Needy Families (TANF) or food stamps.¹ Likewise, many people enrolled in traditional welfare programs, such as the federal-state TANF program,² state General Assistance,³ and the federally funded food stamp program,⁴ now face substantial work requirements.

Amidst the frenzy over work requirements, little attention has been paid to another, perhaps equally critical design question—what *form* should public assistance take? Public assistance today is a haphazard mix of cash transfers, vouchers, electronic benefits, in-kind aid (meaning the direct provision of specific goods or services, such as food or housing), and tax rebates for certain purchases. This grab bag of benefits is likely to get even more complex in the post-welfare-reform world, where vouchers, electronic benefits, and other non-cash aid are increasingly being looked to as solutions for people who reach federal time limits on TANF-funded cash assistance.⁵ Yet few have questioned or examined the potential pitfalls of a move toward non-cash transfers.⁶ Liberals tend to focus mainly on getting something of value in the hands of lower-income people, often with the openly paternalistic motive of addressing what they perceive as peoples' needs. Conservatives claim their goal

1. See *infra* text accompanying notes 118-24.

2. See 42 U.S.C. § 607 (Supp. V 1999).

3. See L. Jerome Gallagher, *A Shrinking Portion of the Safety Net: General Assistance from 1989 to 1998*, NEW FEDERALISM: ISSUES AND OPTIONS FOR STATES, Sept. 1999, at 4, available at http://newfederalism.urban.org/pdf/anf_a36.pdf.

4. See 7 U.S.C. § 2029 (2000).

5. See *infra* text accompanying notes 115, 119.

6. But cf. Janet Currie, *Welfare and the Well-Being of Children: The Relative Effectiveness of Cash and In-Kind Transfers*, 8 TAX POLY & THE ECON. 1 (1994) (suggesting, based on very thin empirical evidence, that some in-kind transfers may be more effective).

is "self-sufficiency,"⁷ but generally do not inquire into what form of aid actually helps lower-income people enter the social and economic mainstream.

This Essay argues that the form of assistance does matter—and that cash transfers are the superior form—for two main reasons. First, cash transfers are the most cost-effective type of assistance because cash gives individuals the freedom to purchase the precise bundle of goods and services that best meets their particular needs. This freedom to spend is important not only because needs can vary greatly across families, but also because human needs are much more complex than is suggested by the traditional notion that the basic necessities of life consist of certain fixed quantities of food, shelter, and clothing. What seems like a luxury to one person often ends up being a necessity to another. For example, some people dismiss stylish clothing as a frivolous expense, yet being dressed a certain way can be critical to a child who wants to fit in at school or to an adult seeking respect in the workplace. The flexibility of cash takes these differences in preferences among individuals into account.

Second, cash promotes the social well-being of lower-income families more effectively than vouchers or in-kind aid. Cash transfers respect the recipients' dignity and autonomy by allowing them the same freedom to spend that the rest of society enjoys. Non-cash forms of public assistance can be deeply stigmatizing, as those who have used paper food stamps know all too well.⁸ The power to spend cash helps preserve a person's basic human dignity.

This Essay also carefully considers the leading arguments against cash transfers, and finds that they tend to rely on common misperceptions about the lives of people at the bottom of the economic ladder. For example, conventional fears that lower-income people will waste money on items like drugs, fast food, and lottery tickets turn out to be largely unwarranted when tested against evidence from social science research. In fact, lower-income people are generally much more careful when they spend money than their wealthier counterparts.⁹

7. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. § 602(a)(1)(A)(i) (Supp. V 1999) (stating that a goal of the newly-created TANF program is "to enable [parents] to leave the program and become self-sufficient.").

8. See *infra* notes 252-55 and accompanying text.

9. See *infra* Part IV.

As the above summary suggests, this Essay will focus solely on the question of what form public assistance should take. It will not address other key issues of policy design since, while important, they do not substantially alter the analysis of what form should be used. Specifically, these other issues include

1. whether income and wealth should be redistributed, and by how much;¹⁰
2. how redistribution should be funded;¹¹
3. who should be running the redistribution process;¹²
4. who should be eligible for assistance;¹³ and

10. Determining the proper amount of redistribution is a major policy concern, but as long as some funds are redistributed, regardless of how much or how little, the question of what form the transfer should take will remain. It is true, as will be discussed more fully below, that non-cash transfers often must be fairly large in order to change the recipient's behavior. *See infra* text accompanying note 231. But this is the only situation in which the size of the transfer will have a direct impact on the form it should take. In general, amount and form of the transfer are separate issues, and the analysis that follows will be relevant to those who favor very modest amounts of redistribution, as well as to those who favor much larger-scale efforts.

11. The question of what tax or private mechanism should be used to fund redistribution is also quite distinct from the question of what form the redistribution should take. Admittedly, some programs, partly for political packaging reasons, are designed so that there is a specific link between the source of the funds and the way they are spent. For example, the fact that working people pay into Social Security through a payroll tax surely enhances the public's perception of the program as a retirement plan, from which a beneficiary typically expects a check, rather than a set of vouchers. But there is no particular reason why this must be so, other than public expectations. Likewise, the form that assistance should take is not affected by whether a program is funded as an entitlement, so that everyone who meets certain eligibility criteria gets the benefit, or as a discretionary program, in which case benefits are available only so long as the money lasts.

12. The appropriate form for the transfer is generally independent of who is doing the redistribution, meaning whether the federal, state, or local government, or a private charity, makes the transfers. While institutional competencies may vary slightly, in-kind aid, cash transfers, and restricted transfers can be, and are, done at any of these levels of organization.

13. Defining the population eligible for assistance is a major aspect of program design. The work requirements mentioned earlier are just one dimension of this problem. Distinctions are currently made along numerous lines, including work status, enrollment in school or job training, number of children, age, disability, immigration status, veteran status, and various moral standards (for example, a criminal record or illegal drug use). The personal characteristics of the recipient rarely affect the form of assistance that is most appropriate, however. The main exception is people who are incapable of managing and spending money due to a severe mental disability, but that is a problem that can be addressed through other means, such as a legal conservator or guardian. A conservator or guardian essentially stands in the recipi-

5. when the transfers should be made.¹⁴

While the conclusion of the argument presented in this Essay is that most public assistance programs should be consolidated into a single cash grant, policymakers need not be overwhelmed by the prospect of such a seemingly daunting task. It can be done gradually by cashing out single programs, as some states have experimented with doing to their food stamp programs.¹⁵ It can also be accomplished by gradually shifting resources from non-cash programs into any of a number of cash-based programs that already exist.¹⁶

I. PUBLIC ASSISTANCE IN AMERICA

Before turning to the specific arguments for cash-based assistance, following is a brief survey of public assistance as it ex-

ent's place, and can make spending decisions by replicating the choices the person would have made for himself. Another possible exception is people who have a demonstrated debilitating addiction to a substance like cocaine or heroin, which effectively destroys their ability to make rational decisions about how to spend money.

MIT economist Lester Thurow has argued, however, that the world cannot be so neatly divided into those who are competent to handle cash and those who are not. He concludes, therefore, that "[g]iven a continuum of individuals with varying degrees of competence, transfer systems need a corresponding continuum of transfers ranging from cash, cash with advice, vouchers, in-kind provision, and, finally, compulsion." Lester C. Thurow, *Government Expenditures: Cash or In-Kind Aid?*, in *MARKETS AND MORALS* 85, 98 (Gerald Dworkin et al. eds., 1977). But this entails an enormously detailed inquiry into the competency of individuals, which the state or a private charity may itself be incompetent at performing, and the costs of which would likely outweigh the benefits. After all, the worst that can happen is that a small number of people will lose or waste their money, and that risk is, as will be argued below, worth taking. See *infra* text accompanying notes 281-321.

14. Many have argued that the timing of transfers is an important aspect of program design. Studies of the EITC, in particular, suggest that people treat annual lump sum payments differently than money that comes in smaller amounts throughout the year. Jennifer L. Romich & Thomas Weisner, *How Families View and Use the EITC: Advance Payment versus Lump Sum Delivery*, 53 NAT'L TAX J. 1245, 1258-60 (2000); Timothy M. Smeeding et al., *The EITC: Expectation, Knowledge, Use, and Economic and Social Mobility*, 53 NAT'L TAX J. 1187, 1188-90 (2000). A further question is whether there should be a single, once-in-a-lifetime lump sum payment, or whether annual or more frequent transfers are preferable. BRUCE ACKERMAN & ANNE ALSTOTT, *THE STAKEHOLDER SOCIETY* 4 (1999) (proposing a one-time grant of \$80,000 to Americans when they reach adulthood). While these questions may be important, they do not fundamentally affect the form that the transfer should take.

15. See *infra* note 99.

16. See *infra* tbl.2.

ists in the United States today, in both cash and non-cash forms, and an overview of the types of proposals for reform that academic experts and policymakers have made in recent years.

A. THE CURRENT STATE OF PUBLIC ASSISTANCE

Public assistance will be defined for the purposes of this discussion as those government programs, privately funded programs, and tax preferences that are *means-tested*, meaning that eligibility is limited to people whose income or assets fall below a certain level. Means-tested programs are, admittedly, only one part of a larger system of economic redistribution in the United States. There are many programs that benefit lower-income people but are not exclusively reserved for them. This includes everything from basic municipal services like police and fire protection to a wide variety of social insurance programs.¹⁷

There are two central reasons for restricting this analysis to means-tested programs. First, cashing out all programs that have any tendency to reduce economic inequality would be almost unimaginable, and certainly destabilizing to our communities. Dismantling institutions like public education and Medicare would wreak havoc on American society, which has become structured around their existence. Cashing out these programs would also require well-functioning private markets

17. See, e.g., PHILIPPE VAN PARIJS, *REAL FREEDOM FOR ALL* 42-43 (1995) (including as part of a proposal for a comprehensive "basic income" the provision of such services as police protection, a court system, the military, public education, and infrastructure). Social Security, for example, helps keep elderly people out of poverty and has a somewhat redistributive effect, since lower-wage workers do currently end up getting a larger share of their wages replaced in retirement than higher-wage workers. See, e.g., BENJAMIN I. PAGE & JAMES R. SIMMONS, *WHAT GOVERNMENT CAN DO: DEALING WITH POVERTY AND INEQUALITY* 81-83 (2000). The redistributive effect is compounded by the fact that Social Security benefits are also subject to progressive federal income tax rates, which effectively reduce the take-home benefit that wealthier people receive. See 26 U.S.C.S. § 86 (Law. Co-op. 2000), *amended by* Act of June 7, 2001, Pub. L. No. 107-16, 115 Stat. 68. But the benefits are not explicitly means-tested, and the program helps everyone who participates. Likewise, many programs funded under federal block grants, such as the Title XX Social Services Block Grant, the Title V Maternal and Child Health Services Block Grant, and the Community Services Block Grant primarily benefit lower-income people, yet eligibility is not always formally restricted. Other major programs that are not means-tested but which have redistributive effects include primary and secondary public education; unemployment compensation; workers' compensation; Medicare; and many other programs for the elderly or disabled.

in goods like education and health care, which may not be possible.¹⁸

Second, and more importantly, universally available programs remedy inequality quite differently from means-tested programs, and do not cause the same kind of damage to the dignity of the people who benefit from them. As political observer Mickey Kaus has argued, by bringing together people from all walks of life, universally available institutions such as mass transit, libraries, and parks can help foster a sense of social equality.¹⁹ Means-tested programs, on the other hand, often send a message of distrust and not of social equality, by singling out a group of people and seeking to direct their spending behavior. While some universally available programs may also involve a similar distrust, they do not undermine equality because the message of distrust is directed at every member of society, regardless of economic status.

Means-tested programs fall into three main categories: in-kind aid; restricted transfers; and cash transfers. In-kind aid is the direct provision of a particular good or service, such as an apartment in a public housing complex. Restricted transfers consist of money or a money-like currency that can be used to purchase only certain types of goods or services. Typically, restricted transfers come in voucher form, like paper food stamps. Restricted transfers can also function as a rebate, where a person first makes a purchase with cash, then is reimbursed. This is how most targeted tax credits work. Finally, restricted transfers can come in the form of an electronic benefit transfer (EBT), which is like an ATM or debit card that can be set up so that it can only be used for certain purchases.²⁰ Cash transfers are the payment of unrestricted money.

The major in-kind and restricted-transfer programs that currently exist in the United States are listed in Table 1, beginning on page 855. Major cash assistance programs are listed in Table 2, beginning on page 862. These programs are listed by the type of assistance, not the source. This is because, from the perspective of a lower-income person seeking assistance, it generally matters little whether the federal, state, or local government, or a private charity is paying for it; the rele-

18. See *infra* text accompanying note 229.

19. MICKEY KAUS, *THE END OF EQUALITY* 96 (1992).

20. See, e.g., 7 U.S.C. § 2016(i) (2000), *amended by* Act of Feb. 11, 2000, 7 U.S.C.S. § 2016 (Law Co-op. Supp. 2000) (describing the process by which food stamps will be converted from paper form to EBTs by 2002).

vant question is what kind of assistance is available. The first table is intended to give the reader a sense of the large number of non-cash programs in existence today whose purpose is to provide specific goods and services to lower-income families. While many of these programs undoubtedly improve the quality of lower-income peoples' lives, this Essay argues that most people would be better off if they received this assistance (with the exception of health care)²¹ as cash instead. The second table is intended to provide examples of cash-based programs that already exist and could be expanded or used as models by policymakers interested in making the move toward cash-based assistance.

Omitted from the tables are tax subsidies that are technically means-tested, but which phase out at such high income levels that they are nearly universal, and tax credits that are not fully refundable and therefore unavailable to the millions of Americans who do not earn enough to owe federal income tax.²² Also omitted are loan programs, including various student and housing loan programs.²³ Finally, these tables include only those programs that provide a direct or nearly direct benefit to the individual, as opposed to strictly supply-side programs like the low-income housing tax credit.²⁴

21. See *infra* text accompanying notes 226-230.

22. The omitted tax subsidies include, for example, the federal Hope and Lifetime Learning credits for college tuition, 26 U.S.C. § 25A (Supp. V 1999), amended by Act of June 7, 2001, Pub. L. No. 107-16, 115 Stat. 59, and the federal credit for adoption expenses, 26 U.S.C.S. § 23 (Supp. V 1999), amended by Act of June 7, 2001, Pub. L. No. 107-16, 115 Stat. 46-49, as well as various non-refundable state income tax credits.

23. Admittedly, any loan at a below-market interest rate is effectively a transfer of wealth, but since the money ultimately has to be repaid, a loan does not permanently increase a family's income in the same way as other transfers.

24. 26 U.S.C. § 42 (1994 & Supp. V 1999), amended by Act of Dec. 21, 2000, Pub. L. No. 106-554, 114 Stat. 2763.

Table 1: Means-Tested In-Kind Assistance and Restricted Transfers in the United States Today

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
Food	<ul style="list-style-type: none"> ▪ School Lunch Program²⁵ ▪ School Breakfast Program²⁶ ▪ Child and Adult Care Food Program²⁷ ▪ Meal supplements for children in after-school care²⁸ 	<ul style="list-style-type: none"> ▪ Food stamps³⁵ ▪ Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)³⁶ ▪ Food vouchers from private charities³⁷ ▪ Restaurant meal reim-

25. 42 U.S.C. §§ 1751-1753, 1759 (1994); 42 U.S.C. §§ 1756-1757 (1994 & Supp. V 1999); 42 U.S.C. §§ 1755, 1758, 1760 (Law. Co-op. Supp. Oct. 2000); 42 U.S.C. § 1759a (1994 & Supp. V 1999), *amended by* Act of Nov. 28, 2001, Pub. L. No. 107-76, 115 Stat. 704.

26. 42 U.S.C. § 1773 (1994 & Supp. V 1999).

27. 42 U.S.C. § 1766 (1994 & Supp. V 1999), *amended by* Act of June 20, 2000, 42 U.S.C.S. § 1766 (Law. Co-op. Supp. 2000), *and* Act of Oct. 30, 2000, Pub. L. No. 106-400, 114 Stat. 1675, *and* Act of Nov. 9, 2000, Pub. L. No. 106-472, 114 Stat. 2073, *and* Act of Dec. 21, 2000, Pub. L. No. 106-554, 114 Stat. 2763, *and* Act of Nov. 28, 2001, Pub. L. No. 107-76, 115 Stat. 704.

28. 42 U.S.C. § 1766a (1994 & Supp. V 1999).

29. 42 U.S.C. § 1761 (1994 & Supp. V 1999).

30. 42 U.S.C. § 1772 (1994 & Supp. V 1999).

31. 7 U.S.C. § 612 (2000).

32. 7 U.S.C. § 2013(b) (2000).

33. 7 U.S.C. §§ 7501-7516 (2000).

34. 42 U.S.C. §§ 11331-11335 (1994).

35. 7 U.S.C. §§ 2011-2036 (2000).

36. 42 U.S.C.S. § 1786 (Law. Co-op. 1990 & Supp. 2001). Note, however, that while WIC usually provides vouchers, it sometimes can take the form of direct provision of food. See HARRELL R. RODGERS JR., POOR WOMEN, POOR CHILDREN 105 (1996).

37. Many charities use vouchers redeemable for a limited number of purchases, typically food, transportation, clothing, or shelter. The Red Cross, for example, has used vouchers for clothing and food. See DAVID ZUCCHINO, MYTH OF THE WELFARE QUEEN 117 (1997). Catholic Charities gives out grocery vouchers. See KATHRYN EDIN & LAURA LEIN, MAKING ENDS MEET 180 (1997). Some organizations use vouchers specifically to provide assistance to panhandlers. See VIVIANA A. ZELIZER, THE SOCIAL MEANING OF MONEY 197 (1994) (describing a program in Berkeley, California that provides coupons for "food, bus fares, or other essentials"). A similar organization founded by Yale Law Students, called New Haven Cares, sells vouchers to students who are encouraged to give them to panhandlers in lieu of cash.

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
	<ul style="list-style-type: none"> ▪ Summer Food Service Program²⁹ ▪ Special Milk Program³⁰ ▪ Commodity Supplemental Food Program³¹ ▪ Food Distribution Program on Indian Reservations³² ▪ Food pantries and soup kitchens supported by private and/or public sources, including The Emergency Food Assistance Program³³ and The Emergency Food and Shelter Program³⁴ 	bursements ³⁸
Clothing	<ul style="list-style-type: none"> ▪ Clothing from private charities³⁹ 	<ul style="list-style-type: none"> ▪ School clothing vouchers for welfare recipients⁴⁰ ▪ Clothing vouchers from private charities⁴¹

38. See *New York v. Lyng*, 829 F.2d 346, 349 (2d Cir. 1987) (describing a state-funded program of restaurant reimbursements for the homeless and others who are unable to cook for themselves).

39. See EDIN & LEIN, *supra* note 37, at 179, 184, 233; see also Aimee Berg, *Helping New Workers Look the Part*, N.Y. TIMES, Jan. 30, 2001, at G2 (describing Dress for Success and other New York-based organizations that give work outfits to low-income women entering the job market); *Suited for Change*, at <http://www.suitedforchange.org> (last visited March 29, 2002) (website of Suited for Change, an organization similar to Dress for Success, based in Washington, D.C.).

40. See, e.g., Rita Dobrich & Joyce Scott, *School Clothing Allowance*, W. Va. Dep't of Health & Human Res., <http://www.wvdhhr.org/ofs/SCA.htm>.

41. See *supra* note 37; see also EDIN & LEIN, *supra* note 37, at 113.

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
Housing	<ul style="list-style-type: none"> ▪ Public housing⁴² ▪ Project-based Section 8 vouchers⁴³ ▪ Shelter Plus Care Program⁴⁴ ▪ Section 101 rent supplements⁴⁵ ▪ Homeless shelters supported by private and/or public funding, 	<ul style="list-style-type: none"> ▪ Section 8 vouchers⁴⁷ ▪ Housing assistance for families moving from welfare to work⁴⁸ ▪ City housing vouchers⁴⁹ ▪ Homeownership assistance⁵⁰ ▪ Various rural housing programs⁵¹ ▪ State income tax credits

42. 42 U.S.C.S. §§ 1437-1437e, 1437g-1437z (Law. Co-op. 2000 and Supp. 2001).

43. 42 U.S.C.S. § 1437f(c) (Law. Co-op. 2000 and Supp. 2001).

44. 42 U.S.C.S. §§ 11403-11407b (Law. Co-op. 1997 & Supp. 2001).

45. 12 U.S.C. § 1701s (2000).

46. 42 U.S.C. §§ 11331-11352 (Law. Co-op. 2000 & Supp. 2001).

47. 42 U.S.C. § 1437f(o) (Law. Co-op. 2000 and Supp. 2001).

48. See BARBARA SARD & JEFF LUBELL, CTR. ON BUDGET AND POL'Y PRIORITIES, THE INCREASING USE OF TANF AND STATE MATCHING FUNDS TO PROVIDE HOUSING ASSISTANCE TO FAMILIES MOVING FROM WELFARE TO WORK (Feb. 17, 2000, supplemented December 3, 2001), <http://www.cbpp.org/2-17-00hous.pdf> (last visited March 29, 2002).

49. See, e.g., ZUCCHINO, *supra* note 37, at 207 (describing transitional housing vouchers provided by the city of Philadelphia to people on the waiting list for federal housing assistance).

50. 12 U.S.C. § 1715z (2000); 42 U.S.C.S. § 1437aaa (Law. Co-op. 2000 & Supp. 2001).

51. 42 U.S.C.S. §§ 1474, 1490a(a)(2), 1490c, 1490m (Law. Co-op. 2000 & Supp. 2001).

52. These are sometimes known as "circuit breaker" credits and are typically available to elderly or disabled lower-income residents. Some states use their income tax system to provide the credit. See ARIZ. REV. STAT. § 43-1072 (2001); CAL. REV. & TAX. CODE § 17053.5 (1994); D.C. CODE ANN. § 47-1806.06 (2000); HAW. REV. STAT. § 235-55.7 (1993); MICH. COMP. LAWS § 206.520 (1998); MO. ANN. STAT. §§ 135.020-135.030 (West 2000 & Supp. 2002); MONT. CODE ANN. §§ 15-30-171 to 15-30-179 (2000); N.M. STAT. ANN. § 7-2-18 (Michie 2000 & Supp. 2001); N.Y. TAX LAW § 606(e) (McKinney 2001-2002); N.D. CENT. CODE § 57-02-08.1 (2001); OKLA. STAT. ANN. tit. 68, §§ 2904-2911 (West 2001); OR. REV. STAT. § 310.635 (1999); PA. STAT. ANN. tit. 72 §§ 4751-1 to 4751-10 (West 1995 & Supp. 2001); R.I. GEN. LAWS §§ 44-33-1 to 44-33-19 (1999 & Supp. 2001). Others, including but not limited to those with no state income tax, provide the credit through the property tax system instead, see, e.g., CONN. GEN. STAT. ANN. §§ 12-170aa to 12-170cc (West 2000), with a parallel grant system set up for renters. See, e.g., CONN. GEN. STAT. ANN. §§ 12-170d to 12-170h (West 2000).

53. 42 U.S.C. § 604(h) (1994 & Supp. V 1999).

	including from The Emergency Food and Shelter Program ⁴⁶	for property taxes or rent ⁵² ▪ Individual Development Accounts for first-time home purchase ⁵³
Health	<ul style="list-style-type: none"> ▪ Medicaid⁵⁴ ▪ State Children's Health Insurance Program (CHIP)⁵⁵ ▪ State prescription drug programs⁵⁶ ▪ State health insurance programs⁵⁷ ▪ Medical services at community or migrant health centers⁵⁸ ▪ Medical assistance for refugees⁵⁹ ▪ Medical care for veterans without a service-connected disability⁶⁰ ▪ Family planning services⁶¹ ▪ Over-the-counter medicines from private charities⁶² ▪ Dental care from private charities⁶³ 	<ul style="list-style-type: none"> ▪ State tax credits for individual health insurance⁶⁴ ▪ State tax credits for prescription drugs⁶⁵

54. 42 U.S.C.S. §§ 1396-1396u (Law. Co-op. 2001).

55. 42 U.S.C.S. §§ 1397aa-1397jj (Law. Co-op. Supp. 2001).

56. Eligibility for these programs, which exist in more than half of the states, is generally restricted to the lower-income elderly. See Robert Pear, *States Creating Plans to Reduce Costs for Drugs*, N.Y. TIMES, Apr. 23, 2001, at A1 (surveying state programs).

57. See, e.g., CONN. GEN. STAT. § 17b-257 (1999 & Supp. 2001).

58. 42 U.S.C.S. § 254b (Law. Co-op. 1994 & Supp. 1999).

59. 8 U.S.C.S. § 1522(e) (Law. Co-op. 1997 & Supp. 2001).

60. 38 U.S.C.S. §§ 1710(a)(1), 1722 (Law. Co-op. 1992 & Supp. 2001).

61. 42 U.S.C. S. § 300a (Law. Co-op. 1991 & Supp. 2001).

62. See EDIN & LEIN, *supra* note 37, at 184.

63. See *id.* at 284 n.22.

64. See, e.g., COLO. REV. STAT. § 39-22-125 (2001) (non-refundable credit, but targeted at low-income families).

65. See, e.g., MICH. COMP. LAWS § 206.273 (1998); MO. ANN. STAT. § 135.095 (West 2000).

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
Energy	<ul style="list-style-type: none"> ▪ Fuel deliveries by government-funded community organizations⁶⁶ 	<ul style="list-style-type: none"> ▪ Low-Income Home Energy Assistance Program⁶⁷ ▪ Weatherization Assistance⁶⁸ ▪ State utility assistance⁶⁹ ▪ Bill payments by private charities⁷⁰
Child care	<ul style="list-style-type: none"> ▪ Head Start⁷¹ ▪ Early Head Start⁷² 	<ul style="list-style-type: none"> ▪ State child care tax credits⁷³ ▪ Child care subsidies funded by the Child Care and Development Fund,⁷⁴ TANF,⁷⁵ and the Child Care Access Means Parents in Schools (CHAMPS) program⁷⁶

66. See CYNTHIA M. DUNCAN, *WORLDS APART: WHY POVERTY PERSISTS IN RURAL AMERICA* 48 (1999) (describing deliveries of coal to lower-income families by local community action agency); ZELIZER, *supra* note 37, at 173 (noting "coal orders" given to lower-income families).

67. 42 U.S.C.S. §§ 8621-8629 (Law. Co-op. 1997 & Supp. 2001).

68. 42 U.S.C.S. §§ 6861-6873 (Law. Co-op. 1994 & Supp. 2001).

69. See, e.g., CONN. GEN. STAT. § 12-170e (2000).

70. See EDIN & LEIN, *supra* note 37, at 184.

71. 42 U.S.C.S. §§ 9831-9852 (Law. Co-op. 1997 & Supp. 2000).

72. *Id.* § 9840a.

73. Ten states have income tax credits for child care that, unlike the federal credit, are refundable. See NICHOLAS JOHNSON, *TANF FUNDS MAY BE USED TO CREATE OR EXPAND REFUNDABLE STATE CHILD CARE TAX CREDITS*, CTR. ON BUDGET AND POL'Y PRIORITIES, <http://www.cbpp.org/10-11-00sfp.htm> (Oct. 11, 2000).

74. 42 U.S.C. § 9858 (Law. Co-op. 1997 & Supp. 2000).

75. U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, *TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM: THIRD ANNUAL REPORT TO CONGRESS* 179 (2000), <http://www.acf.dhhs.gov/programs/opre/annual3.pdf> (last modified Aug. 2000).

76. 20 U.S.C. § 1070e (1994 & Supp. V 1999).

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
Educa- tion & job train- ing	<ul style="list-style-type: none"> ▪ Workforce Investment Act programs⁷⁷ ▪ Welfare-to-work programs (training component)⁷⁸ ▪ TRIO programs, such as Upward Bound⁷⁹ ▪ Job Corps⁸⁰ 	<ul style="list-style-type: none"> ▪ Pell Grants⁸¹ ▪ State tuition grants⁸² ▪ Supplemental Educational Opportunity Grants⁸³ ▪ Leveraging Educational Assistance Partnership Program⁸⁴ ▪ State tax credits for college tuition⁸⁵ ▪ State education tax credits⁸⁶ ▪ Individual Development Accounts for higher education or business start-up costs⁸⁷ ▪ Fellowships for graduate education⁸⁸

77. 29 U.S.C.S. §§ 2801-2872 (Law. Co-op. Supp. 2001).

78. 42 U.S.C. § 607(d)(5), (6), (8), (9) (1994 & Supp. V 1999).

79. 20 U.S.C.S. §§ 1070a-11 to 1070a-18 (Law. Co-op. 1999 & Supp. 2001).

80. 29 U.S.C.S. §§ 2881-2901 (Law. Co-op. Supp. 2001).

81. 20 U.S.C. § 1070a (1994 & Supp. V 1999).

82. See Todd S. Purdum, *California Enacts Expansive College Aid Plan*, N.Y. TIMES, Sept. 12, 2000, at A16 (describing programs in California and New York).

83. See 20 U.S.C. § 1070b (1994 & Supp. V 1999).

84. See 20 U.S.C.S. § 1070c (Law. Co-op. 1999 & Supp. 2001).

85. South Carolina and New York have both recently enacted refundable credits for college tuition. See S.C. CODE ANN. § 12-6-3385 (West 2000) (enacted in 1998); N.Y. TAX LAW § 606(t) (Consol. Supp. 2001) (enacted in 2000). Several other states have nonrefundable credits.

86. Only Minnesota currently has a refundable credit for K-12 educational expenses. MINN. STAT. ANN. § 290.0674 (West Supp. 2002). Several other states have nonrefundable credits.

87. 42 U.S.C. § 604(h) (1994 & Supp. V 1999).

88. 20 U.S.C.S. §§ 1134-1134c (Law. Co-op. Supp. 2001).

	In-Kind Assistance	Restricted Transfers (Vouchers & Rebates)
Misc.	<ul style="list-style-type: none"> ▪ Legal Services⁸⁹ ▪ Toys and holiday gifts from private charities⁹⁰ ▪ Household supplies from private charities⁹¹ ▪ Transportation assistance for families moving from welfare to work⁹² 	<ul style="list-style-type: none"> ▪ Transportation assistance for families moving from welfare to work⁹³

89. 42 U.S.C.S. §§ 2996-2996l (Law. Co-op. 2000 & Supp. 2001).

90. See EDIN & LEIN, *supra* note 37, at 179, 233.

91. See *id.* at 179.

92. See PAUL MAIERS, TRANSPORTATION IN WELFARE REFORM, U.S. DEP'T OF HEALTH & HUMAN SERVS., OFFICE OF FAMILY ASSISTANCE, <http://www.acf.dhhs.gov/programs/ofa/TRANS2.HTM> (June 1999) (describing the transportation assistance provided by each state with its TANF and state matching funds). Some assistance is in-kind, such as bus tokens; other assistance, such as mileage reimbursement, is in the form of a restricted transfer. See *id.*

93. See *id.*

Table 2: Means-Tested Cash-Based Public Assistance in the United States Today

Traditional welfare	Temporary Assistance for Needy Families (TANF) (cash assistance portion) ⁹⁴ State or local General Assistance ⁹⁵ Emergency payments under state welfare diversion programs ⁹⁶ Refugee assistance ⁹⁷ General assistance for Indians ⁹⁸ Cashed-out food stamps ⁹⁹
----------------------------	--

94. 42 U.S.C.S. §§ 601-619 (Law. Co-op. Supp. 2001). TANF is the successor to the Aid to Families with Dependent Children (AFDC) program.

95. See Gallagher, *supra* note 3, at 1, 3. Note, however, that some state general assistance programs offer vouchers instead of cash. See *id.* at 1.

96. See Barbara Vobejda & Judith Havemann, *States' Welfare Shift: Stop It Before It Starts; 'Diversion' to Alternatives Cuts Caseload*, WASH. POST, Aug. 12, 1998, at A1. Some states, however, severely restrict the use of these cash transfers. See, e.g., State of Connecticut, *Governor Rowland Announces New Program to Help Keep People Off Welfare*, <http://www.dss.state.ct.us/pressrel/980930.htm> (last modified Sept. 30, 1998).

97. 8 U.S.C. § 1522(e) (2000).

98. 25 U.S.C.S. §§ 13d to 13d-3 (Law. Co-op. 2001).

99. 7 U.S.C. §§ 2026(d), 2030-2031 (2000) (allowing for state cash-outs of food stamps); *id.* § 2028 (providing for the Nutrition Assistance Program in Puerto Rico, a cashed-out food stamp program); see also Thomas M. Fraker et al., *The Effect of Food Stamp Cashout on Food Expenditures: An Assessment of the Findings from Four Demonstrations*, 30 J. HUM. RES. 633, 635 (1995) (describing cash-out demonstration projects in Alabama, San Diego County, and Washington state); Virginia Knox et al., *Reforming Welfare and Rewarding Work: A Summary of the Final Report on the Minnesota Family Investment Program*, Manpower Demonstration Research Corporation, <http://www.mdrc.org/Reports2000/MFIP/MFIPSummary.htm> (2000) (describing the Minnesota Family Investment Program, a demonstration project conducted from 1994 to 1996 that included the cashing out of food stamps).

Refundable tax credits	Federal Earned Income Tax Credit (EITC) ¹⁰⁰ State Earned Income Tax Credits ¹⁰¹ Federal child credit ¹⁰²
Disability programs	Supplemental Security Income (SSI) ¹⁰³ State supplement programs ¹⁰⁴ State disability programs ¹⁰⁵ Non-service-connected disability pension for veterans ¹⁰⁶
Other	Foster care assistance ¹⁰⁷ Adoption assistance ¹⁰⁸ Cash assistance from private charities ¹⁰⁹

There are no estimates of the total value of these various forms of public assistance because comprehensive data on spending by private charities is not readily available. Estimates of total government spending on public assistance, however, suggest that about twenty-four percent consists of cash transfers, while the rest is in-kind aid or restricted transfers.¹¹⁰

The growth in government spending on non-cash public as-

100. See 26 U.S.C.S. § 32 (Law. Co-op. 2000).

101. See NICHOLAS JOHNSON, CTR. ON BUDGET AND POL'Y PRIORITIES, A HAND UP: HOW STATE EARNED INCOME TAX CREDITS HELP WORKING FAMILIES ESCAPE POVERTY IN 2001, at 7, <http://www.cbpp.org/12-27-01sfp.pdf> (2001) (reporting that Washington, D.C. and ten states offer a refundable earned income tax credit based on the federal EITC: Colorado; Kansas; Maryland; Massachusetts; Minnesota; New Jersey; New York; Oklahoma; Wisconsin; and Vermont).

102. See Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, § 201(c), 115 Stat. 45 (to be codified at 26 U.S.C. § 24(d)).

103. 42 U.S.C.S. §§ 1381-1383 (Law. Co-op. 2000 & Supp. 2001).

104. 42 U.S.C.S. § 1382g (Law. Co-op. 2000).

105. See, e.g., 55 PA. CODE §§ 451.1-.5 (2000) (describing the rules governing Pennsylvania's State Blind Pension program).

106. 38 U.S.C.S. §§ 1521-1522 (Law. Co-op. Supp. 2001).

107. 42 U.S.C.S. § 672 (Law. Co-op. Supp. 2001).

108. 42 U.S.C.S. § 673 (Law. Co-op. Supp. 2000).

109. See EDIN & LEIN, *supra* note 37, at 184.

110. See COMM. ON WAYS & MEANS, U.S. HOUSE OF REPRESENTATIVES, THE 2000 GREEN BOOK 1394 (2000).

sistance has significantly outpaced the growth in cash-based public assistance over the last twenty-five years.¹¹¹ Swiftly rising health care costs are largely responsible for the increase in non-cash transfers. Spending on health care programs now accounts for half of all government-funded public assistance.¹¹² But other non-cash programs have grown as well.¹¹³ State-funded assistance, including safety net programs for people ineligible for federal assistance—some because they have reached the five-year federal time limit under TANF—are increasingly in the form of vouchers, electronic benefits, and other non-cash aid.¹¹⁴ In addition, both the federal and state governments have been enacting various targeted tax credits, which, although generally aimed at the middle class, are part of a larger trend toward restricted transfers.¹¹⁵ In contrast, the real, inflation-adjusted value of spending on Aid to Families with Dependent Children (AFDC), a largely cash-based program, grew very little and the real value of its per-family benefit declined significantly.¹¹⁶ Federal spending on the TANF program, which replaced AFDC in 1997, has likewise been falling in real terms,¹¹⁷ with a shrinking share of the funds devoted to cash assistance, and a growing share to restricted transfers of various forms.¹¹⁸

The main exception to the trend away from cash assistance has been the Earned Income Tax Credit. The federal EITC is an income tax credit that is available through a “refund” check—even to people who do not owe any federal income

111. *See id.* at 1400 tbl.K-4.

112. *See id.* at 1394.

113. *See id.* at 1400 tbl.K-4.

114. *See* Editorial, *Welfare's Next Phase*, N.Y. TIMES, May 22, 2001, at A18 (describing the program set up by New York State for people who have reached federal time limits for welfare, saying, “The state plan doles out very little cash. Instead it will pay rent, utilities and other costs, either directly or through a debit card.”); Gallagher, *supra* note 3, at 1; LIZ SCHOTT, CTR. ON BUDGET AND POL’Y PRIORITIES, *WAYS THAT STATES CAN SERVE FAMILIES THAT REACH WELFARE TIME LIMITS* 16-17, <http://www.cbpp.org/6-21-00wel.pdf> (2000).

115. *See supra* note 22.

116. *See* SUSAN E. MAYER, *WHAT MONEY CAN’T BUY: FAMILY INCOME AND CHILDREN’S LIFE CHANCES* 31-33 (1997).

117. *See* ZOE NEUBERGER ET AL., CTR. ON BUDGET AND POL’Y PRIORITIES, *FUNDING ISSUES IN TANF REAUTHORIZATION*, <http://www.cbpp.org/11-30-01wel.pdf> (Feb. 5, 2002) (“[TANF’s] inflation-adjusted value fell by more than 11 percent between fiscal year 1997 and fiscal year 2002.”).

118. *See id.*

taxes—provided that they have been working and earning an income. The federal EITC has steadily grown over time, with significant expansions in 1986,¹¹⁹ 1990,¹²⁰ and 1993,¹²¹ and a more modest increase in the tax bill signed into law by President Bush in the spring of 2001.¹²² At \$30 billion per year, the EITC is now a greater source of redistributed federal dollars than either TANF or food stamps.¹²³ Many states have also recently enacted their own EITCs.¹²⁴ In a related provision, the tax bill signed into law in the spring of 2001 also expanded the per-child tax credit to make it partially refundable for low-income working parents.¹²⁵

B. PROPOSALS FOR REFORM

Following is a survey of some of the leading proposals to reshape public assistance put forward by academics and policymakers. The purpose of this brief discussion is not to provide an exhaustive catalogue of policy options, but rather to demonstrate that both cash and non-cash transfers are considered viable alternatives by those seeking to reform public assistance.

1. Non-Cash Assistance Proposals

Proposals to reform public assistance through new forms of non-cash assistance have come from a variety of sources. In the academic world, Yale Law School professors Michael Graetz and Jerry Mashaw have championed restricted transfers in their 1999 proposal for a major overhaul of social insurance.¹²⁶ While their overall program seeks to move away from means testing and make public assistance far more broad-based than it is today, they do propose a number of means-tested transfers

119. See Tax Reform Act of 1986 § 111, Pub. L. No. 99-514, 100 Stat. 2085 (1986).

120. See Omnibus Budget Reconciliation Act of 1990 § 11111, Pub. L. No. 101-508, 104 Stat. 1388 (1990).

121. See Omnibus Budget Reconciliation Act of 1993 §§ 13131(a)-(e), 26 U.S.C.S. § 32 (Law. Co-op. 2000).

122. See Economic Growth and Tax Relief Reconciliation Act of 2001 § 303(a), Pub. L. No. 107-16, 115 Stat. 55 (2001) (to be codified at 26 U.S.C. § 32).

123. See Smeeding et al., *supra* note 14, at 1187.

124. See JOHNSON, *supra* note 101, at 7.

125. See Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, 115 Stat. 38 (to be codified at I.R.C. § 32).

126. MICHAEL J. GRAETZ & JERRY L. MASHAW, TRUE SECURITY 145-320 (1999).

to prevent child poverty.¹²⁷ Graetz and Mashaw concede the appeal of cash transfers, but conclude they are neither politically feasible nor the most effective way to keep children out of poverty.¹²⁸ As a result, while many of Graetz and Mashaw's more universal proposals—such as those for unemployment or disability insurance—remain cash based, they suggest helping lower-income families with children through restricted transfers for housing and child care.¹²⁹ Graetz and Mashaw do not argue against cashing out food stamps for families with children, however.¹³⁰ Barbara Bergmann, an economist and prominent academic advocate of restricted transfers, recently proposed a similar system of vouchers for child care and housing as part of a comprehensive "Help for Working Parents" program.¹³¹

Several national political leaders have also promoted restricted transfers, particularly for child care. Former President George Bush proposed making the child and dependent care tax credit refundable in 1989;¹³² more recently, former President Bill Clinton included a refundable child care credit in his final budget request,¹³³ and former Senator Bill Bradley made the refundable credit and increased in-kind child care assistance part of his platform in his bid for the 2000 Democratic presidential nomination.¹³⁴

A different type of restricted transfer that has recently garnered a fair amount of political support is the Individual Development Account (IDA). First conceived of by Washington University's Michael Sherraden, IDAs are savings accounts for specified purchases—such as a first-time home purchase, school tuition, or business start-up costs—that typically involve gov-

127. See *id.* at 63-64.

128. See *id.* at 234.

129. See *id.* at 243, 247.

130. See *id.* at 237.

131. See BARBARA R. BERGMANN, *SAVING OUR CHILDREN FROM POVERTY: WHAT THE UNITED STATES CAN LEARN FROM FRANCE* 125-27 (1996).

132. See Jonathan Barry Forman, *Beyond President Bush's Child Tax Credit Proposal: Towards a Comprehensive System of Tax Credits to Help Low-Income Families with Children*, 38 EMORY L.J. 661, 674-76 (1989).

133. See OFFICE OF MGMT. AND BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES, *BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 2001*, at 258 (2000).

134. See James Dao, *Bradley Challenges Nation to Eliminate Child Poverty*, N.Y. TIMES, Oct. 22, 1999, at A22.

ernment matching funds for individual contributions.¹³⁵ The United States Department of Health and Human Services is currently funding several IDA programs¹³⁶ and President George W. Bush proposed an additional \$25 million for IDAs in his first budget request, as well as a tax credit for private financial institutions that set up similar accounts with their own matching funds.¹³⁷ Other academics have proposed a similar concept, called human capital accounts. These accounts would be transfers to young people, who could then make withdrawals for specified purposes, such as higher education, job training, or medical expenses.¹³⁸

2. Cash Transfer Proposals

There are two types of cash transfer proposals that policy-makers and academics frequently suggest: a basic income, which is made available to a broad population, and wage subsidies, which are available to those who work. A basic income is a universal cash transfer, taxable according to the same progressive income tax structure as other income. A similar concept is the negative income tax, which is a cash transfer only to people whose incomes fall below a certain level.¹³⁹ Ralph Nader called for a federal negative income tax as a third-party candidate for the presidency in 2000,¹⁴⁰ but the concept did not originate with Nader; rather, it has deep historical roots. The Johnson Administration initiated a series of negative income tax experiments in the late 1960s,¹⁴¹ and in 1969, President Richard Nixon proposed a "Family Assistance Plan," which would have provided a minimum annual \$1600 cash grant to a family of

135. See MICHAEL SHERRADEN, *ASSETS AND THE POOR: A NEW AMERICAN WELFARE POLICY* 220-75 (1991).

136. 42 U.S.C. § 604(h) (1994 & Supp. V 1999).

137. See OFFICE OF MGMT. AND BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES, *BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 2002*, at 111 (2001).

138. See ACKERMAN & ALSTOTT, *supra* note 14, at 215 (describing human capital account proposals by Yale economist James Tobin, Harvard Law professor Roberto Unger, and others).

139. For a more detailed explanation of how a basic income or negative income tax would work, see Anne L. Alstott, *Work vs. Freedom: A Liberal Challenge to Employment Subsidies*, 108 YALE L.J. 967, 977-78 (1999).

140. See Peter Y. Hong, *Nader Targets Candidates on Child Poverty*, L.A. TIMES, June 27, 2000, at A11.

141. See VINCENT J. BURKE & LEE BURKE, *NIXON'S GOOD DEED: WELFARE REFORM* 21-22 (1974).

four.¹⁴² Presidential candidate George McGovern echoed Nixon's proposal in 1972, when he called for a \$1000 annual cash grant, which he termed a "demogrant."¹⁴³ While Nixon's plan passed the House of Representatives,¹⁴⁴ it never made it through the Senate.¹⁴⁵ The plan did, however, lead to the creation of Supplemental Security Income (SSI),¹⁴⁶ a system of federally funded cash transfers to the low-income elderly and disabled.¹⁴⁷

A number of academics have also promoted the concept of a basic income. In the 1960s, Nobel Prize-winning economists Milton Friedman¹⁴⁸ and James Tobin¹⁴⁹ were leading advocates of a basic income or negative income tax. In the 1990s, European political theorist Philippe Van Parijs proposed a more ambitious universal basic income of the "highest sustainable" amount.¹⁵⁰ Many other academics have made similar proposals.¹⁵¹ Yale Law School professors Bruce Ackerman and Anne Alstott have proposed a lump sum grant of \$80,000 to each American when he or she reaches adulthood.¹⁵² This is essentially an unrestricted cash-based version of the human capital account proposal mentioned above.¹⁵³ British Prime Minister

142. See HOUSE COMM. ON WAYS & MEANS, 91ST CONG., THE PRESIDENT'S PROPOSALS FOR WELFARE REFORM AND SOCIAL SECURITY AMENDMENTS 43-45 (Comm. Print 1969).

143. See THEODORE H. WHITE, THE MAKING OF THE PRESIDENT 1972, at 119 (1973).

144. See DANIEL P. MOYNIHAN, THE POLITICS OF A GUARANTEED INCOME 437 (1973) (describing the 243-155 vote in the House on April 16, 1970 in favor of the Family Assistance Act).

145. See *id.* at 439.

146. See BURKE & BURKE, *supra* note 141, at 188-89.

147. See 42 U.S.C.S. § 1381-1383f (Law. Co-op. 2000 & Supp. 2001).

148. See MILTON FRIEDMAN, CAPITALISM AND FREEDOM 191-92 (1962).

149. See James Tobin, *The Case for an Income Guarantee*, 4 PUB. INT. 31, 36-38 (1966); see also James Tobin et al., *Is a Negative Income Tax Practical?*, 77 YALE L.J. 1, 1-4 (1967) (discussing some of the technical design issues raised by negative income tax proposals).

150. See VAN PARIJS, *supra* note 17; Philippe Van Parijs, *A Basic Income for All*, BOSTON REV., Oct.-Nov. 2000, at 4.

151. See Joseph Bankman & Thomas Griffith, *Social Welfare and the Rate Structure: A New Look at Progressive Taxation*, 75 CAL. L. REV. 1905, 1965 (1987); Daniel Shaviro, *The Minimum Wage, the Earned Income Tax Credit, and Optimal Subsidy Policy*, 64 U. CHI. L. REV. 405, 469 (1997); see also *Basic Income European Network*, <http://www.basicincome.org> (last visited March 29, 2002) (an organization of "individuals and groups committed to, or interested in, basic income").

152. ACKERMAN & ALSTOTT, *supra* note 14, at 4.

153. See *id.* at 215.

Tony Blair recently proposed a scaled-back version of the Ackerman-Alstott grant, in which the government would create a savings account for each newborn child that would grow in value to between \$4500 and \$7500 by the time the child reached age eighteen.¹⁵⁴

Wage subsidies, which are cash supplements paid to people with earnings from work, are a type of cash transfer that has attracted a fair amount of support in the academic and political arenas. In 1997, Columbia economist Edmund Phelps proposed a \$125 billion wage subsidy plan.¹⁵⁵ A related approach, proposed by many, is to expand the EITC, which functions as a wage subsidy because it is available only to low-income workers. Expanding the size of the EITC is a popular idea in progressive political circles. President Clinton proposed a major EITC expansion in his final budget request,¹⁵⁶ and former Vice President Al Gore and former Senator Bill Bradley both proposed an EITC expansion during their 2000 presidential campaigns.¹⁵⁷ Several states also enacted or expanded an EITC in 2000.¹⁵⁸ Proposals for cash assistance to non-working adults, on the other hand, have been few and far between. Exceptions include state experiments with cashing out food stamps,¹⁵⁹ and proposals for a fully refundable federal child tax credit.¹⁶⁰

154. See David S. Broder, *Tony Blair's Eye-Catchers*, WASH. POST, May 2, 2001, at A21.

155. See EDMUND S. PHELPS, *REWARDING WORK: HOW TO RESTORE PARTICIPATION AND SELF-SUPPORT TO FREE ENTERPRISE* 105-116 (1997).

156. See OFFICE OF MGMT. AND BUDGET, *supra* note 133, at 258 (2000) (including a 10-year, \$23.6 billion proposal to expand the EITC to provide tax relief for 6.8 million working families).

157. See David E. Rosenbaum, *Study Finds Winners and Losers for Bush and Gore Tax Proposals*, N.Y. TIMES, Oct. 3, 2000, at A23 (noting Gore support for EITC expansion); Louis Uchitelle, *The Sounds of Silence*, N.Y. TIMES, Dec. 19, 1999, at 4-4 (noting Bradley support for EITC expansion).

158. See Johnson, *supra* note 101, at 6. Johnson notes,

In the 2000 and 2001 legislative sessions, ten states (counting the District of Columbia as a state) enacted new Earned Income Tax Credits or expanded existing state EITCs. The District of Columbia, Illinois, Maine, New Jersey, and Oklahoma enacted new EITCs. Colorado, Maryland, Minnesota, New York, and Vermont substantially expanded existing EITCs.

Altogether, sixteen states now offer EITCs based on the federal credit. *Id.* (citation omitted). Note that not all of these are refundable credits. See *id.* at 7.

159. See *supra* note 99.

160. See, e.g., CHILDREN'S DEFENSE FUND, *MAKING THE CHILD TAX CREDIT REFUNDABLE*, http://www.cdfactioncouncil.org/refundability_child_credit.htm (Jan. 26, 2001); NATIONAL COMMISSION ON CHILDREN, *BEYOND RHETORIC: A*

II. THE COST-EFFECTIVENESS ARGUMENT FOR CASH TRANSFERS

A. THE ECONOMIST'S CASE FOR CASH

Until North Korea went into economic free fall in the early 1990's, all citizens received the staples of life—food, housing, clothing, jobs and medical care—free from the government.¹⁶¹

For a country that prides itself on its free markets, it is remarkable how closely public assistance programs in the United States resemble the constructs of a communist regime. Indeed, the argument for the cost-effectiveness of cash-based assistance is grounded in basic market economics. Simply put, cash transfers maximize the utility, or value, gained from the transfer because they allow the recipient family to spend the money in accordance with its particular preferences. Restricted transfers or in-kind aid, on the other hand, will not necessarily match the family's preferences, so they will generate less utility for the family. If society wants the greatest possible return on its dollar, it should use cash as a means of redistributing wealth and income. This has elsewhere been described as the economist's argument.¹⁶²

Using public housing as an example, economist Milton Friedman has argued that

NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES 94 (1991).

161. Elisabeth Rosenthal, *Collapse of Health System Adds to North Korea's Crisis*, N.Y. TIMES, Feb. 20, 2001, at A1, A8.

162. See BERGMANN, *supra* note 131, at 130 ("Most economists have taken the position that government benefits are best given in the form of cash, rather than in the form of goods and services or vouchers."); PAGE & SIMMONS, *supra* note 17, at 273 ("To a number of economists . . . the best way to combat poverty seems obvious: give poor people money. . . . Let poor people maximize their satisfaction for each dollar spent, and let private markets respond by providing whatever people will pay for."); ZELIZER, *supra* note 37, at 196 ("[U]nrestricted cash payments to the poor have gained new allies, namely economists who invoke the principle of consumer sovereignty to argue against the government's inefficient attempt to 'distort individual consumption decisions' by providing aid in kind.") (citation omitted); Thomas C. Schelling, *Economic Reasoning and the Ethics of Policy*, 63 PUB. INT. 37, 60 (1981). Schelling states,

A . . . touchstone of market economics is the idea that most people are better at spending their own money than somebody else is at spending it for them.

. . . [G]enerally the economist thinks the burden of proof belongs on those who want to give food stamps or subway tokens or eyeglasses to the poor and the elderly, not money.

Id.

[i]f funds are to be used to help the poor, would they not be used more effectively by being given in cash rather than in kind? Surely, the families being helped would rather have a given sum in cash than in the form of housing. They could themselves spend the money on housing if they so desired. Hence, they would never be worse off if given cash; if they regarded other needs as more important, they would be better off.¹⁶³

Friedman was joined in this view by a majority of his fellow economists. A survey of American economists taken about twenty years ago found that sixty-eight percent agreed with the statement "Cash payments are superior to transfers-in-kind."¹⁶⁴ Another twenty-four percent partly agreed, and only eight percent disagreed with the statement.¹⁶⁵

Critics of this argument contest the notion that the only goal of public assistance is to maximize the recipients' utility. Lester Thurow observed that this formulation neglects the other side of the equation, which is the impact on the utility of the donor¹⁶⁶ (i.e. the taxpayer or contributor to a private charity). If the utility gain to the donor of transferring income depends on the recipient spending it on a particular good or service, then while a cash transfer may increase the recipient's utility, it will simultaneously result in a loss of utility to the donor if the recipient chooses to spend it on something other than the donor's preferred good.¹⁶⁷ For example, suppose that taxpayers support the food stamp program because they are happier living in a society where people never go hungry. If food stamps are cashed out, and some people choose to spend the money on new clothes instead of food, then these taxpayers will feel that the money spent on that clothes-buying group has been wasted. Not only do these taxpayers fail to gain any personal happiness from the transfer, but they have also lost the money spent on the program, which they could have used to generate utility for themselves in some other way.

There is nothing wrong with this analytical framework; the problem is that we do not know whether donor utility does, in fact, depend on the consumption of particular goods or services. The key question, in other words, is why do we choose, as a society, to redistribute income to those who are less well off? There are many possible reasons. Some have argued that it is

163. FRIEDMAN, *supra* note 148, at 178.

164. J.R. Kearl et al., *What Economists Think: A Confusion of Economists?*, AM. ECON. REV., May 1979, at 28, 30.

165. *Id.*

166. See THUROW, *supra* note 13, at 88.

167. *See id.*

because we think people have rights to certain basic necessities, such as food, shelter, and medical care.¹⁶⁸ This is perhaps derived from a more fundamental concept (whether secular or religious) of a "right to live."¹⁶⁹ Alternatively, since so many public assistance programs target families with children, perhaps society wants to improve the lives of children. This could stem from a moral sense that children are blameless and should not have to suffer because their parents are poor.¹⁷⁰ There also exist more selfish reasons, such as the desire for children to grow up to be productive,¹⁷¹ law-abiding¹⁷² citizens. These self-regarding reasons may also apply to public assistance for adults, since "by providing welfare and social services to poor people, government and social services give the rest of

168. See GRAETZ & MASHAW, *supra* note 126, at 49 ("[M]ost of us are not concerned simply that our fellow citizens may have insufficient cash. Instead, as contributors to the well-being of the disadvantaged, taxpayers seem concerned about material deprivation with respect to basic necessities such as food, shelter, child care, and medical care."); PAGE & SIMMONS, *supra* note 17, at 285; Steven Pearlstein, *Should the Tax System Redistribute the Wealth?*, WASH. POST, Mar. 11, 2001, at H1, H4 (quoting pollster Mark Penn as saying "Americans strongly support the concept that nobody who works should be without the basic necessities of life. But outside that framework, people don't want to see policies whose primary purpose is to redistribute income.").

169. See MARTHA F. DAVIS, *BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973*, at 37-39 (1993) (describing Edward V. Sparer's advocacy of a constitutional "right to live" as a central goal of the welfare rights movement); Steven Kelman, *A Case for In-Kind Transfers*, 2 ECON. & PHIL. 55, 59-61 (1986).

170. See, e.g., GRAETZ & MASHAW, *supra* note 126, at 120 ("Poverty status in general is too dependent on personal incentives and actions to be a good candidate for aggressive social insurance interventions. But from this perspective childhood poverty is different. Children's actions are not implicated in their poverty.").

171. See, e.g., *id.* ("[S]ociety has a special stake in preventing childhood poverty. A nation wants its children to become productive adults."); VALERIE POLAKOW, *LIVES ON THE EDGE: SINGLE MOTHERS AND THEIR CHILDREN IN THE OTHER AMERICA* 101 (1993) ("[H]ealth and nutritional programs for pregnant or nursing mothers and their babies have been justified in terms of the avoidance of future economic costs, rather than on positive humanitarian grounds.").

172. See, e.g., POLAKOW, *supra* note 171, at 101 (quoting the governor of Kentucky, who stated in 1986, "Early childhood programs cost money—sometimes a lot of it. But crime costs more."); Patrick J. Sullivan, Jr., Letter to the Editor, *Conservatives Should Fight for Good Child Care*, WASH. TIMES, June 14, 2000, at A18 (letter from Arapahoe County, Colorado sheriff arguing, on behalf of the National Sheriffs' Association, that child care funding should be increased because "[s]tudies clearly prove that failing to help working parents get good child care for at-risk children can quintuple our risk that children will grow up to victimize us.") (citation omitted).

society protection against other means that poor people could use to obtain what they need (such as taking it).¹⁷³ Other rationales for redistribution include promoting equal citizenship;¹⁷⁴ providing a safety net or social insurance against the risk of economic disaster;¹⁷⁵ or allowing everyone a chance to pursue "the American dream."¹⁷⁶

With the exception of the rights to basic necessities formulation, none of these visions provide a sufficient level of detail to answer the question of whether the donor's utility comes from the consumption of specific goods, from enhancing the recipient's purchasing power, or a combination thereof. Even if there were a clear answer to this question, public opinion may be fairly malleable on this issue, so public policy should probably not turn entirely on it. As Steven Kelman of Harvard's Kennedy School of Government has observed,

[T]he strength of people's preferences for helping the disadvantaged is not fixed. It can vary depending on the context in which the issue is presented. . . . [P]resenting the problems of the disadvantaged in a multiplicity of contexts, tied to specific problems they face, will tend to increase the willingness of the non-disadvantaged to help, compared to a situation where the problem is presented in a single abstract context.¹⁷⁷

In other words, the nature of the donor's utility function may depend on his understanding of the recipient's utility function. Kelman believes that the donor public's understanding of recipients' needs is quite limited. For example, one can foster

173. See LINDA R. ALWITT & THOMAS D. DONLEY, *THE LOW-INCOME CONSUMER: ADJUSTING THE BALANCE OF EXCHANGE* 159 (1996) (citing R.P. Bagozzi, *Marketing as Exchange*, 39 J. MARKETING 32 (1975)).

174. See, e.g., ACKERMAN & ALSTOTT, *supra* note 14, at 183 (arguing for redistribution in pursuit of "the republican ideal of free and equal citizenship").

175. See, e.g., JOSEPH E. STIGLITZ, *ECONOMICS OF THE PUBLIC SECTOR* 392 (3d ed. 2000) ("Knowing that adversity can strike anyone, individuals may think, 'There but for the grace of God go I.' The knowledge that there is a safety net adds to their sense of economic security, and thus to their overall well-being."); see also GRAETZ & MASHAW, *supra* note 126, at 149 (observing that the social insurance vision serves the dual function of not only redistributing income to the poor, but also of smoothing family income over the life cycle).

176. See, e.g., Richard W. Stevenson, *In a Time of Plenty, The Poor Are Still Poor*, N.Y. TIMES, Jan. 23, 2000, at WK3 (quoting Senator Ted Kennedy of Massachusetts as saying "As a society, we must answer an increasingly urgent question. What can we do to close the widening gap in income and skills that leaves too many Americans unable to participate fully in the American Dream?").

177. Kelman, *supra* note 169, at 69.

public support for food stamps, he says, by talking about people who are going hungry, but one cannot build support for cash, because the discussion of needs would be too abstract.¹⁷⁸

Kelman may be underestimating the American people. If the public is capable of more sophisticated understanding and can comprehend the complexity and variability of human needs, it may be willing to make cash transfers. It is to that complexity that we now turn.

B. WHEN LUXURIES ARE BASICS

A system of restricted and in-kind transfers cannot be as cost-effective as cash unless it targets the specific set of goods and services that will most improve the recipients' lives. It might seem easy, from an outsider's perspective, to define that set of goods and services. After all, we all have an instinctive sense of what is needed in order to function in society. We usually call these the basic necessities of life, and most people would describe them as food, shelter, clothing, and medical care. But how do we arrive at this list? Economists Trudi Renwick and Barbara Bergmann suggest that

People of ample means who are asked about the income required for minimum adequacy will probably arrive at a response by taking their own budgets and mentally stripping them of purchases, such as alcohol, expensive footwear, and gambling stakes, that they consider to be luxuries and vices. Lower-income people, however, may configure their actual purchases quite differently. After all, they are leading the difficult life that most [higher-income people] are merely thinking about momentarily.¹⁷⁹

Studies of lower-income families confirm this observation about the complexity of their needs. Kathryn Edin and Laura Lein's in-depth examination of the lives of lower-income mothers across the United States revealed that the women sometimes skimp on "necessities" (which they defined as housing; food; medical care; clothing; transportation; child care; phone service; laundry/toiletries/cleaning supplies; baby care; school supplies and fees; appliances; and furniture)¹⁸⁰ in order to spend on such "nonnecessary" items as entertainment (usually video rentals, but occasionally movies, trips to amusement parks, or travel to visit a relative), cable television, cigarettes,

178. See *id.* at 69-70.

179. Trudi J. Renwick & Barbara R. Bergmann, *A Budget-Based Definition of Poverty*, 28 J. HUM. RES. 1, 11 (1993).

180. See EDIN & LEIN, *supra* note 37, at 23, tbl.2-1.

alcohol, restaurant meals, or lottery tickets.¹⁸¹ Why do these women forgo necessities in favor of seemingly avoidable expenditures? Edin and Lein explain:

Although not physical necessities, the ["nonnecessary"] items met crucial psychological needs.

Although the mothers in our sample worried about day-to-day material survival, most saw survival as having broader "psychological" and "social" dimensions. One mother commented: "You know, we live in a materialistic world. Our welfare babies have needs and wants too. They see other kids going to the circus, having toys and stuff like that. You gotta do what you gotta do to make your kid feel normal. There is no way you can deprive your child."¹⁸²

Women spend on "luxuries" for themselves as well as their children. As one woman explained,

"I never buy for myself, only for my son. Well, I take that back. I allow myself two of what I guess you would call luxuries. Well, I guess three. First, I buy soda pop. I do not eat meals hardly ever, but I always have to have a can of Pepsi in my hand. . . . I guess it's the pop that gives me my energy for dealing with my son—you know, the sugar and caffeine and stuff.

"And then I treat myself to the cigarettes. Without the smoking, I would just worry all the time about how we was [sic] going to eat and would never relax. . . .

"And the other thing is, I buy my cosmetics. I mean, I go around feeling so low all the time, and the makeup makes me feel, you know, better about myself. I feel like I'm not so poor when I can buy myself some cosmetics at the discount house."¹⁸³

What are these "luxury" goods that serve fundamental psychological and social needs? They differ somewhat from family to family. Buying a can of soda or new makeup is what it takes for one person to feel less poor, while to another taking the kids to the circus is what matters. Even the most sophisticated voucher system imaginable could not address all of these needs. Cash transfers are the only way to ensure that people can get the precise set of goods and services that meets their basic emotional needs.

One "luxury" good that lower-income families need the flexibility of cash to obtain is clothing. On a certain level, clothes are viewed as a necessity, for modesty and warmth reasons, if nothing else. Curiously, however, clothing is the only one of the four stereotypical basic necessities (the others being food, shelter, and medical care) that is not provided through a

181. See *id.* at 15, 23, 30.

182. *Id.* at 30.

183. *Id.* at 31.

traditional public assistance program. Presumably, this is because Goodwill, the Salvation Army, and other charities already provide a ready supply of free or very low-cost clothing, and very little clothing is needed to avoid having to walk the streets naked or cold.

A closer look at the role that clothing plays in our lives, however, demonstrates the inherent flaws in the idea that one person can define another's needs. Clothes are not just a means of staying warm and covering ourselves; they also play a key role in self-expression¹⁸⁴ and in how others perceive us.¹⁸⁵ This is true for most adults, but it is doubly true for young children and teenagers. Not only are kids constantly outgrowing their clothes, but clothes can also affect how well they fit in at school. Lower-income parents want to be able to provide new clothes for their children. When they do have cash to spend, often clothes are the first things they buy.¹⁸⁶ Many lower-income adults grew up poor and remember how difficult it was not to have clothes like everyone else.¹⁸⁷ Many get pressure from

184. See ZELIZER, *supra* note 37, at 149 (describing the theory among early twentieth-century social scientists that clothing, if selected and purchased by the poor themselves, could be a "vehicle for self-expression").

185. See GRANT MCCracken, *CULTURE AND CONSUMPTION* 98 (1988) ("It is widely noted that clothing serves a communicative, cultural function in large part through its ability to express distinct categories within status, age, gender, class, occupation, marital status, religion, and politics."); *id.* at 57-70 (describing the various expressive properties of clothing).

186. See EDIN & LEIN, *supra* note 37, at 156 (describing a woman who gets cash gifts from her boyfriend and uses them to buy sneakers and clothing for her children); ZUCCHINO, *supra* note 37, at 226 (describing a homeless woman in Philadelphia who "took a city bus to the Rainbow discount store on Front Street, where she bought new clothes for school; she did not want Destiny wearing donated clothes with worn spots and stains"); Romich & Weisner, *supra* note 14, at 1259 (noting that "[t]wo-thirds of the parents in [Romich and Weisner's study] who receive[d] the EITC or a substantial tax refund cite[d] expenditures on children as a priority use of [the] check. . . . Clothes [were] the most commonly cited child-specific purchase."); Kevin Sack, *Want A Tax Cut? You Bet. Well, Maybe Not.*, N.Y. TIMES, Feb. 8, 2001, at A22 (reporting that when asked how she would spend a tax cut, a twenty-one-year-old mill worker said she would buy new clothes for her two children); cf. JOHN E. SCHWARTZ & THOMAS J. VOLGY, *THE FORGOTTEN AMERICANS* 21 (1992) (describing low-income parents who rely on grandparents to buy new clothes for the kids).

187. See DUNCAN, *supra* note 66, at 41 (quoting a thirty-year-old woman recalling, "Kids made fun of me because of not having decent clothes and things. Most of what we had was hand-me-downs, this one to that one, to make ends meet. You just never fit in."); MAYER, *supra* note 116, at 52 ("A young student teacher . . . explained that because of her family's poverty, 'I didn't fit in (with other children) style-wise. I've never fit in style-wise, I mean—clothes-wise.'"); *id.* at 98 ("[Some people] seem to think that children

their children,¹⁸⁸ often so much pressure that parents fear that if they do not buy new clothes for their children, the children will turn to selling drugs to make money to buy the clothes on their own.¹⁸⁹ Clothes can even make a difference in how teachers treat children, and accordingly, how they perform in school. As one parent who had grown up poor in Appalachia observed, "If a child is well dressed and is a little blond princess, she is going to be treated different by the other kids, and sometimes by the teachers, than a very poorly dressed child."¹⁹⁰ Harvard

need whatever goods and services are considered 'normal' in their community. In making this point one teacher recalled, 'I remember my first John Romain pocketbook. It was Christmas and, oh, I just cried. Then I fit in with everybody else.'"); Michael Janofsky, *Kool-Aid, Not Soda: Living on Food Stamps*, N.Y. TIMES, Apr. 5, 1995, at A1, A16 (quoting low-wage worker who accepts food stamps, saying "I'm embarrassed by this for the children. When I didn't have the right clothes in school, they'd call me Rag Doll."); cf. MICHAEL TONRY, *MALIGN NEGLECT—RACE, CRIME, AND PUNISHMENT IN AMERICA* 16 (1995) ("Anyone who has struggled to provide for a child or who has been unable to pay for a child's eyeglasses or school trip or videogames or whatever clothes 'everyone else' is wearing can empathize with a mother who, month after month, can do few or none of those things.").

188. See EDIN & LEIN, *supra* note 37, at 150 ("The kids give me a headache about clothes."); *id.* at 26 ("[M]others reported that their older children—especially high school boys—felt they could not maintain their self-respect or the respect of their peers while wearing K-Mart shoes to school.").

189. See *id.* at 26, reporting that

[s]ome mothers felt that if they did not purchase name-brand sneakers, an athletic jacket, or other popular items for their teenagers, their children might be lured into criminal activity so they could buy these items themselves: "My boy, he sees these kids that sell drugs. They can afford to buy these [tennis shoes] and he can't. So I have my little side-job and [I buy them for him]. You got to do it to keep them away from drugs, from the streets."

Id.; see also JULIE B. SCHOR, *THE OVERSPENT AMERICAN* 39-40 (1998) (citing CARL HUSEMOLLER NIGHTINGALE, *ON THE EDGE: A HISTORY OF POOR BLACK CHILDREN AND THEIR AMERICAN DREAMS* (1993)) (describing a study of inner-city children in Philadelphia who end up selling drugs so that they can buy the \$100 athletic shoes, Nike sweats, or gold jewelry necessary to be respected socially).

190. DUNCAN, *supra* note 66, at 41. See also *id.* at 51, quoting a thirty-six-year-old man recalling,

When I hit seventh grade, where they kept changing classes and I was in a different school, people were making fun of me because I would have to bring my own lunch to school, wear shoes with holes in them, whatever. That's when my grades went downhill. [I began to fight with others in high school, and the principal gave me a choice.] They said, 'We can expel you for the rest of the year or give you fifty licks.' I took the expulsion . . .

Id.; POLAKOW, *supra* note 171, at 138-41 (describing the life of a seven-year-old girl who comes to school in "flipflops three sizes too big for her . . . in the

lecturer Juliet Schor has described expenditures on children's clothing as "defensive" spending, because it prevents children from being ignored or treated badly at school.¹⁹¹

Having the right clothes matters to adults, too. Part of the reason is the fundamental self-expressive value of clothing, but there is also a more practical reason: The better you look, the more seriously you are taken in the job market. As the director of programs for Dress for Success, a New York-based organization that provides name-brand work outfits to low-income women, explains, "we don't want to give people a chance to think these women are anything less than anyone else."¹⁹² Dress for Success actually rejects many of the donations it gets, passing them along to Salvation Army if they do not meet its high standards.¹⁹³

There has been some recognition among policymakers that new clothing is a worthwhile purchase. For example, both former President Clinton and former Senator Bill Bradley, when singing the praises of the EITC, have specifically mentioned new clothes for kids as an important use of the credit.¹⁹⁴ Others, however, sharply criticize the clothing expenditures of lower-income families. The disapproval has been particularly targeted at the purchase of name-brand sneakers, which many view as a waste of money,¹⁹⁵ despite the fact that they are one of the most important clothing items in the eyes of many children.¹⁹⁶ It takes a transformative experience, one of truly putting oneself in another's shoes, to realize the value of these seemingly "nonnecessary" items. Lynda McDonnell, a newspaper reporter who taught a college seminar to a group of fairly

middle of a snowy December—dressed in a summer blouse several sizes too small and a long flimsy skirt," and how badly she is treated by her teacher and her classmates).

191. See SCHOR, *supra* note 189, at 19.

192. Berg, *supra* note 39, at G2; cf. ROBERT H. FRANK, *LUXURY FEVER* 4 (1999) (noting that "recent changes in the spending environment . . . affect . . . the kind of suit you'll choose to wear to a job interview").

193. See Berg, *supra* note 39, at G2.

194. See FRANK, *supra* note 192, at 257 (citing Mary H. Cooper, *The Working Poor: Will Funding Cuts Make Their Future Grimmer?*, CON. Q. RESEARCHER, Nov. 3, 1995, at 969); Romich & Weisner, *supra* note 14, at 1245.

195. See, e.g., MAYER, *supra* note 116, at 47 (suggesting that money spent on "fancy gym shoes" does not benefit children).

196. See, e.g., ZUCCHINO, *supra* note 37, at 313 (reporting that one grandmother on welfare had been asked by her grandson for "a certain expensive brand of sneakers" for Christmas); see also *supra* note 189.

privileged freshmen in which she required them to intern at agencies that serve poor people, described one such experience:

[One] student, working at a Minneapolis soup kitchen, noted that the children wore clothes that would have been fashionable a decade earlier—Smurfs sweat pants, Little Mermaid t-shirts. Recalling how the kids who wore outdated clothes were taunted in her junior high, she was suddenly ashamed of her designer clothes and tried to fold her jacket and tug on her jeans to hide the labels.

In that moment, she understood clearly the difference between merely being clothed and being clothed in a way that enables you to fit in. She saw firsthand how even good intentions can have unexpected consequences when you don't know the recipients of your charity; those Smurf sweats were likely donated by middle-class folks who thought the Salvation Army was a better place for their cast-offs than the closets of their nieces or nephews.¹⁹⁷

Part of the reason why people may underestimate the value of new clothes to a lower-income family is that they forget that the concept of what clothes are "needed" does not come from nowhere; higher-income people help set the standard. Any time a need is identified, there has to be some baseline established. Poverty is always a relative measure. Food, for example, can be enough to keep a person alive, enough to keep him well nourished, or a several course meal at a five-star restaurant. Shelter can be anything from a cardboard box to a mansion. Medical care can be a Band-Aid or major surgery. And clothing, of course, can be cast-off Smurf sweatpants or brand-new Air Jordans. As Juliet Schor has observed, "Indeed, the very term 'standard of living' suggests the point: the standard is a social norm."¹⁹⁸

The concept that poverty is relative is not a new one. Adam Smith argued over two hundred years ago that the "necessaries" of life include "whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without."¹⁹⁹ As an example, Smith observed that while in eighteenth-century England, "The poorest creditable person of either sex would be ashamed to appear in public without [leather shoes]," the same was not true in France, where "the lowest rank of both sexes appear . . . publicly, without any discredit, sometimes in wooden shoes, and sometimes

197. Lynda McDonnell, *The Ghost of Tom Joad: What Happens When an Entire Generation Forgets What It Means to Be Poor?*, WASH. MONTHLY, Nov. 2000, at 13.

198. SCHOR, *supra* note 189, at 9.

199. ADAM SMITH, *AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS* 821 (Edwin Cannan ed., Modern Library 1937).

bare-footed.”²⁰⁰ More recently, economist and Nobel laureate Amartya Sen has argued,

*Relative deprivation in terms of incomes can yield absolute deprivation in terms of capabilities. Being relatively poor in a rich country can be a great capability handicap, even when one's absolute income is high in world standards. In a generally opulent country, more income is needed to buy enough commodities to achieve the same social functioning.*²⁰¹

Sen goes on to suggest that goods like televisions, VCRs, and cars are often necessary to “take part in the life of a community” in a country where almost everyone has these things. The “strain on a relatively poor person in a rich country” to meet “the competing demands of these expenses” and seemingly more fundamental needs, like food, is part of the reason why there is still hunger in wealthy countries like the United States.²⁰² Recall the woman quoted above who skips meals but spends money on the soda, cigarettes, and makeup she needs to make her feel human.²⁰³ Sociologists Richard Sennett and Jonathan Cobb have described this as the problem of a “post-scarcity society,” where “[f]reedom is no longer simply the freedom to eat.”²⁰⁴ Many others have noted the relative, or competitive nature of spending and human needs,²⁰⁵ although the

200. *Id.* at 822.

201. JAMES FOSTER & AMARTYA SEN, ON ECONOMIC INEQUALITY 212-13 (2d ed. 1997) (citations omitted).

202. *See id.* at 213 n.160.

203. *See supra* text accompanying note 183.

204. RICHARD SENNETT & JONATHAN COBB, THE HIDDEN INJURIES OF CLASS 74 (1972).

205. *See* ACKERMAN & ALSTOTT, *supra* note 14, at 141 (“The kinds of clothing, food, transportation, and shelter that lead to endless and profound embarrassment in one society might be perfectly compatible with a dignified, if spartan, existence in another. This line cannot be drawn technocratically.”).

Poor Americans are poor *relative to other Americans*. But this does not mean that they are “not really” poor. Human beings are social creatures who live in interaction and in comparison with others. A person deprived of things that everyone around him has is likely to suffer a sense of inadequacy, a loss of dignity and self-respect. Thus poverty is partly a state of mind, based on one's relative standing in one's own society and community.

PAGE & SIMMONS, *supra* note 17, at 26.

When through the process of economic expansion new symbols of comfort among the well-to-do replace old ones—two cars instead of one, a speedboat, a personal set of encyclopedias for his kids—[a factory worker interviewed by the authors] is hard-put to resist the admonitions to buy, because all these objects may be necessary for someone to live a ‘really’ respectable life, and he isn't at that point yet.

concept is not without its critics, who claim that concern about relative status in society is "predominantly an upper class" notion, and "unimportant" to lower-income people.²⁰⁶

This problem also appears to be getting worse, as income and wealth inequality in the United States continues to grow,²⁰⁷ while technology brings us closer and closer together. Schor's theory is that people are no longer just "keeping up with the Joneses"; now television sets the standard, and people are trying to mimic the lifestyles of the characters on *Friends* or the drivers of the Mercedes Benzes they on TV.²⁰⁸ As evidence of the perceived need to keep up with the spending of the rich, social scientists cite the growing problem of middle-class consumer debt.²⁰⁹ Polling data also suggest that relative income is what drives feelings of economic inadequacy, more than absolute income. Asked if they would prefer "World A: You earn \$110,000 per year, others earn \$200,000" or "World B: You earn \$100,000 per year, others earn \$85,000," most Americans choose World B.²¹⁰

SENNETT & COBB, *supra* note 204. THUROW, *supra* note 13, at 99 ("[W]ants are generated by societal pressures. There are no innate wants (other than the biological ones). . . ."); Kelman, *supra* note 169, at 61 ("[S]tandards of what constitutes degradation will vary across cultures, time, and economic circumstances. Circumstances of life that might not seem degrading in an Indian village might well be regarded as such in the contemporary United States. Such judgments are relative.").

206. Gordon Tullock notes,

It is sometimes said that people are not interested particularly in their actual income but in their comparative income. . . . I regard [this] as basically an absurd proposition. . . . [T]his kind of feeling is predominantly an upper class one. We don't worry about starving, but we want to be respected by our acquaintances. This requires that our consumption be at least up to community standards. If we were really poor, such matters would be less important.

Gordon Tullock, *The Reality of Redistribution*, in POVERTY AND INEQUALITY: THE POLITICAL ECONOMY OF REDISTRIBUTION 127, 134 (Jon Neill ed., 1997).

207. See JARED BERNSTEIN ET AL., CTR. ON BUDGET AND POL'Y PRIORITIES & ECON. POL'Y INST., PULLING APART: A STATE-BY-STATE ANALYSIS OF INCOME TRENDS, at x, <http://www.cbpp.org/1-18-00sfp-part1.pdf>. (Jan. 18, 2000) (reporting that in two-thirds of the states, the income gap between the top and bottom fifths of families grew from the late 1980s to the late 1990s).

208. SCHOR, *supra* note 189, at 4, 10.

209. FRANK, *supra* note 192, at 4-5; SCHOR, *supra* note 189, at 19-20; Nina Bernstein, *Widest Income Gap Is Found in New York*, N.Y. TIMES, Jan. 19, 2000, at B5 (quoting NYU economist Ed Wolff, saying, "The middle class is going deeper and deeper into debt. They've been mortgaging their homes up to the hilt to try to keep up with the Wall Street Joneses.").

210. See Robert H. Frank, *Why Living in a Rich Society Makes Us Feel Poor*, N.Y. TIMES MAG., Oct. 15, 2000, at 62.

The scramble to spend is not just a middle-class problem; lower-income families see the same television ads and programs and live in the same world, however far apart their lives might seem from those at the top of the economic ladder.²¹¹ As a result, policies that deprive lower-income families of the ability to make the same kinds of spending decisions as everyone else—including the decision to purchase perceived “luxuries” instead of goods that others assume to be the basic necessities of life—end up isolating them socially. This is what happens every time a family wishes to buy a “luxury” but is forced to buy a “necessity” because all the family has is a voucher or in-kind aid. Cash transfers, by contrast, allow families to make whichever spending choices best meet their needs, maximizing society’s return on its investment in public assistance.

C. THE VARIABILITY OF PREFERENCES

As suggested in the previous section, there is a great deal of variability among the preferences of lower-income people for various goods and services. This is true even when it comes to those “basic necessities” that are currently provided through restricted transfers or in-kind aid, such as food and housing. Part of the reason is that needs can vary according to any of a number of demographic characteristics, including how many adults and children there are in a family, and of what ages; what region of the country the family lives in; whether the family lives in a city or a suburb; where family members work; what type of housing the family lives in; what transportation options are available; and what time of year it is. Restricted transfers and in-kind aid can, and often do, adjust for some of these variables, although often at substantial administrative cost. Not all of these variables can be precisely accounted for, however. As Linda Alwitt and Thomas Donley noted in their study of low-income consumers, there are complex interactions among various demographic characteristics. For example,

Because of the pressures of raising a child without a partner, single parents might place a high value on convenience in meeting their consumer needs. For example, transporting the children to the store is difficult even if a car is available, but using public transit to transport both children and purchases becomes quite formidable and near

211. See FRANK, *supra* note 192, at 3 (“[T]he spending of the superrich . . . [has] been the leading edge of pervasive changes in the spending patterns of middle- and even low-income families.”).

impossible.²¹²

Does this mean that food subsidies should be increased for single parents, and especially those without cars, in order to take into account the fact that they will be more likely to shop in local neighborhood stores, where prices are typically higher?²¹³ It would be nearly impossible to make those kinds of detailed judgments, and certainly prohibitively costly to do so. Graetz and Mashaw propose to address the variability of housing and child care costs, at least, by subsidizing a set percentage of expenditures.²¹⁴ But while their scheme would accomplish some of the same goals as cash transfers, it would be much more difficult than cash to administer, because it would require much greater interaction between the agency providing the subsidy and the beneficiary making the purchase.

People's tastes and preferences also vary even beyond the bounds of what their demographic characteristics would predict. Usually, we celebrate this aspect of human nature. It would be a dull world if we all had exactly the same desires—for the same food, the same kinds of housing, the same clothes. But some of us have big appetites and care little about how many rooms our apartments have; others love to dress up and would eat macaroni and cheese from a box every day if that were what it took to stay looking good. The permutations are virtually endless.

This is not merely an intuition about human nature; it is also supported by empirical data. Studies of the effects of cashing out food stamps, for example, show that a significant percentage of people would spend some of the money on something other than food. Estimates from nationwide consumption surveys suggest that 10-15% of people would choose to spend some of the money on other items.²¹⁵ Studies of actual cash-out demonstration projects, conducted in Alabama, San Diego County, and Washington State in the early 1990s, found an overall reduction in food expenditures of 18-28%.²¹⁶ The fact that food stamps have a street value far below their face value may also

212. ALWITT & DONLEY, *supra* note 173, at 58.

213. *See id.* at 127 (citing studies that show food prices in poor neighborhoods are higher than in other neighborhoods).

214. GRAETZ & MASHAW, *supra* note 126, at 247-50.

215. *See* Thomas M. Fraker et al., *The Effects of Cashing-Out Food Stamps on Household Food Use and the Cost of Issuing Benefits*, 14 J. POL'Y. ANALYSIS & MGMT. 372, 376 (1995).

216. *See* Fraker et al., *supra* note 99, at 645.

reinforce this finding, although some of the reduction in value is surely attributable to compensation to the buyer for engaging in this illegal trade.²¹⁷ How the money is spent varies. There is some evidence that when a family dips into the food budget, whether legally or illegally, the money is typically redirected to rent and transportation,²¹⁸ although occasionally it may be spent on other items, such as school supplies²¹⁹ or illegal drugs.²²⁰ Setting aside the issue of illegal drugs for the moment,²²¹ it is clear that some families currently receiving restricted transfers are prevented from obtaining the precise mix of goods and services that best suits their needs.

Another kind of economic choice that restricted transfers and in-kind benefits generally do not permit is the decision to save for the future. You cannot put your food stamps or your Section 8 voucher in the bank for a rainy day. The exception to this is Individual Development Accounts, but these only allow saving for very limited purchases.²²² Cash is a much more effective vehicle for saving, as many EITC recipients have discovered. The annual EITC refund, researchers have recently learned, is often used to save for future expenses or invest in assets that promote economic mobility, such as a car, schooling, or housing in a better neighborhood.²²³ Middle-class taxpayers often save or invest their tax refund as well.²²⁴ As Philippe Van

217. See *infra* text accompanying note 233.

218. See BARBARA COHEN & NATHAN YOUNG, URBAN INST., EVALUATION OF THE WASHINGTON STATE FOOD STAMP CASHOUT DEMONSTRATION 77 (1993) (showing that cashing out food stamps leads to higher expenditures on shelter and transportation); EDIN & LEIN, *supra* note 37, at 220 ("Typically, mothers traded food stamps for cash only when they were short on the rent . . ."); Richard Rothstein, *Inner-City Nomads Follow a Track to Low Grades*, N.Y. TIMES, Jan. 19, 2000, at B9 ("Forced to spend more [than thirty percent of income on rent, due to the lack of affordable housing], poor families often raid food budgets to pay rent.").

219. See ZUCCHINO, *supra* note 37, at 151.

220. *Id.* at 81.

221. For a discussion of spending on illegal drugs, see *infra* text accompanying notes 292-300.

222. 42 U.S.C. § 604(h) (1994 & Supp. V 1999).

223. Smeeding et al., *supra* note 14, at 1198; see Romich & Weisner, *supra* note 14, at 1259.

224. See FAST FINANCIAL ANALYSIS, GALLUP SURVEY ASKS AMERICANS ABOUT TAX REFUNDS, at <http://www.fastfa.com/tax/articles/survey.asp> (last visited March 29, 2002) (reporting on a 1999 Gallup poll, which found that thirty-six percent of taxpayers who received a refund used all or part of the money to add to their savings, and twelve percent invest all or some of the money).

Parijs has argued, part of the purpose of public assistance should be to help give people

the real freedom to acquire and use means of production. And this it can do, in part, precisely because it is given in cash rather than in the form of non-tradable food vouchers or housing grants, for example, and because therefore any part of it that exceeds the barest current needs can be used to build up productive wealth by those keen enough to do so.²²⁵

The preference for postponing current consumption in favor of an improved economic future is fundamentally no different than a preference for housing over food, or clothes over housing. These are choices that lower-income people would like to make, in order to best meet their own needs. Only through cash transfers can we be sure that those preferences will be satisfied.

D. LIMITATIONS AND PRACTICAL CONSTRAINTS

There are a few important limitations to the argument for the cost-effectiveness of cash-based public assistance that must be acknowledged. First, while most public assistance should be cash-based, health care programs should generally remain in-kind. The main reason for this is that health care is a "merit good," which is "something that in our ethical judgment everybody should have, whether or not they are willing or able to buy it."²²⁶ One might think from this description that food and housing are also merit goods, and surely many do see them that way. But the reality is that in the United States today, a restaurant may refuse to feed a starving person and a shelter may refuse to house a homeless person, but a hospital may not refuse to provide emergency medical services to a person who cannot afford them.²²⁷ If we view health care as something that must be provided to everyone, then we should do so in the most cost-effective way, which is through group insurance. Insurance programs are more cost-effective in part because they encourage the use of preventative services. For example, by providing routine doctor visits for small children, programs like Medicaid and CHIP prevent costly trips to the emergency room.²²⁸ In-kind provision of group health insurance, as op-

225. VAN PARIJS, *supra* note 17, at 42.

226. BERGMANN, *supra* note 131, at 131.

227. See 42 U.S.C.S. § 1395dd (Law. Co-op. Supp. 2000).

228. See AM. COLL. OF PHYSICIANS, NO HEALTH INSURANCE? IT'S ENOUGH TO MAKE YOU SICK—SCIENTIFIC RESEARCH LINKING THE LACK OF HEALTH

posed to a restricted transfer for the individual purchase of health insurance, is also warranted because robust markets for individual insurance policies do not currently exist.²²⁹ A lower-income person would therefore have difficulty purchasing an insurance policy equivalent to Medicaid or CHIP coverage on the private market. In other words, health insurance may be one of those rare goods for which government is a more effective market participant than the individual consumer.²³⁰

Second, cashing out programs will not always make much practical difference in the purchases that people are able to make. There are two reasons for this. The first is that money is fungible. If you give someone the resources to obtain one thing, often it just frees up funds to buy something else. To give a simple example, imagine a child who has a dollar bill to spend each day for a snack, and uses it to buy a small carton of milk. You think to yourself, "This is great, I want to help this kid buy his milk," so you give him a coupon for a free carton of milk each day. Now the child has a coupon and a dollar bill, so he gets a carton of milk and a candy bar each day. Like it or not, you bought him the candy bar.

This is what happens any time the government or a private charity gives a person a voucher or in-kind aid targeted at a purchase the person was already making; all the voucher or in-kind aid does is free up funds for another, possibly entirely dif-

COVERAGE TO POOR HEALTH 16 (Nov. 30, 1999), <http://www.acponline.org/uninsured/lack-paper.pdf>.

229. See IRIS J. LAV & JOEL FRIEDMAN, CTR. ON BUDGET AND POL'Y PRIORITIES, TAX CREDITS FOR INDIVIDUALS TO BUY HEALTH INSURANCE WON'T HELP MANY UNINSURED FAMILIES 6-7, <http://www.cbpp.org/2-15-01tax2.pdf> (Feb. 15, 2001).

230. While a full cash-out of health care services would be unwise, a shift toward more consumer-directed spending can be accomplished by transforming some purely in-kind aid into a more flexible restricted transfer. The U.S. Department of Health and Human Services and the Robert Wood Johnson Foundation are currently funding a demonstration project called Cash and Counseling, which creates a restricted cash benefit that allows elderly or disabled Medicaid recipients who require personal assistance services (such as help with dressing, bathing, and eating) to determine whom to hire and for what services, in accordance with their individual needs. Participants can also decide to use this cash benefit to purchase other goods or services that enhance their ability to live independently, such as transportation, home modifications, or assistive devices. See KEVIN J. MAHONEY & LORI SIMON-RUSINOWITZ, UNIV. OF MD. CTR. ON AGING, CASH AND COUNSELING: DEMONSTRATION AND EVALUATION OF A CONSUMER-DIRECTED MODEL FOR LONG-TERM SERVICES, at <http://www.inform.umd.edu/EdRes/Colleges/HLHP/AGING/CCDemo/overview.html> (last updated Aug. 2, 2000).

ferent, purchase. This is particularly likely when aid levels are set very low, and when they are targeted at the kinds of basic necessities that people almost always choose to buy for themselves. For example, imagine a family that currently spends \$200 on food. Giving \$250 in food stamps each month to this family will generally induce a \$50 increase in the amount of food purchased. This is because the family has no choice but to spend that extra \$50 on food; the only other choice is to leave it unspent (assuming the family does not sell or trade the stamps on the black market).²³¹ On the other hand, providing the same family with less than \$200 in food stamps or a cash grant of any size would not necessarily change the size of the family's food budget, because the family was already choosing to spend more than that amount on food. In order for a restricted transfer to change the recipient's behavior in some way, therefore, it must either be so large that it forces the recipient to buy more of the good than she otherwise would have or it must be for a good that she would not otherwise have chosen to buy. Otherwise, the restricted transfer may as well have come in cash; the only difference is that restricted transfers are more damaging to the recipient's dignity, as will be discussed in Part III, below.

The second reason why cash-outs may not make much practical difference is that restricted transfers often end up functioning as cash assistance anyway, because illegal markets crop up to convert the restricted transfers to cash or other goods. These kinds of exchanges have been going on in the United States since at least the nineteenth century.²³² In recent years, they have been particularly common with paper food stamps. Through "stamp men" who often work the street corners near welfare offices, food stamps can be sold for fifty to seventy cents per dollar's worth of face value.²³³ Some storeowners also exchange food stamps for nonfood items or cash, typically paying fifty cents on the dollar.²³⁴ The discount is presumably compensation for the risk that storeowners or "stamp men" take in engaging in this illegal activity. Food stamps are also sometimes traded for such services as car rides

231. See *infra* notes 232-36.

232. See ZELIZER, *supra* note 37, at 134-35, 173, 187-88.

233. ZUCCHINO, *supra* note 37, at 81.

234. See U.S. GENERAL ACCOUNTING OFFICE, FOOD ASSISTANCE: REDUCING THE TRAFFICKING OF FOOD STAMP BENEFITS 1 (GAO/T-RCED-00-250, July 19, 2000) (Statement of Lawrence J. Dyckman before the Task Force on Welfare, Committee on the Budget, House of Representatives).

home from the grocery store²³⁵ or illegal drugs.²³⁶ In addition, the food bought with food stamps can be used to generate income. Sometimes the food is resold as-is;²³⁷ other times, enterprising people prepare hot meals with the food and sell the meals door-to-door, at a considerable profit.²³⁸ Using Electronic Benefit Transfers instead of paper stamps can curb some of these exchanges, but the resale of food is virtually impossible to stop.

E. ADMINISTRATIVE SAVINGS

Converting public assistance to a purely cash-based system would also result in substantial administrative savings. These savings accrue not only to the government or charity administering the assistance, but also to the individual recipient. The state or a private charity saves money by cashing out public assistance because there is much less work involved, both in terms of paperwork and actual numbers of people needed to administer the aid. Establishing and maintaining a voucher system involves a lot more paperwork and staff work than simply handing over cash. The same is true of in-kind aid. Running a food pantry or soup kitchen, for example, requires much more labor and work space than giving out money does. Of course, a great deal of the administrative costs of many programs comes from verifying eligibility and the amount of aid that will be given out, and these costs will exist regardless of whether or not the aid is in cash. This has been a particular problem with the food stamp program, where federal concerns about fraud and over-payment have fueled the creation of extensive state bureaucracies.²³⁹ But the act of cashing out a program like food stamps does itself help reduce administrative costs. The cash-out demonstration project in San Diego County, for example, reduced monthly administrative costs by \$2.02 per recipient, for a total monthly savings of \$111,350, or \$1.3 million per year.²⁴⁰

The other type of "administrative" savings from cashing out public assistance comes from the time and energy it saves

235. ZUCCHINO, *supra* note 37, at 314.

236. *Id.* at 81.

237. ZELIZER, *supra* note 37, at 197.

238. ZUCCHINO, *supra* note 37, at 117-18.

239. See Elizabeth Becker, *Millions Eligible For Food Stamps Aren't Applying*, N.Y. TIMES, Feb. 26, 2001, at A1.

240. See Fraker et al., *supra* note 215, at 386 tbl.3, 387.

for the recipients. Under the current hodgepodge of a system, people often end up devoting considerable amounts of time to rounding up the resources to meet the various needs in their lives. Laura Lein reports from a study of Mexican-American families in a San Antonio public housing project that

[i]n order to get the goods and services their families needed each month, the San Antonio families garnered assistance from as many as twenty-five different public and private service agencies each year. Each agency had different regulatory requirements, eligibility criteria, and routines for service delivery. Thus, using agencies as a survival strategy took a lot of time, energy, and know-how.²⁴¹

Part of the problem is that there are so many different public and private agencies administering the aid. Cashing out the programs will not necessarily change that aspect of the system, although it will surely lead to some consolidation in the long run. After all, what is the point of having a separate housing agency, energy assistance program, and food stamp office if they all just distribute cash? Some states have tried to make things a little easier for recipients of public assistance by creating a single application for multiple types of assistance.²⁴² But there is no question that the process would be easier if everyone were just giving out cash. Cash distributions also reduce the time devoted to keeping extensive records of rent and utility payments, for example, as those receiving certain restricted transfers currently must do.²⁴³

Furthermore, it is possible that the administrative costs to recipients associated with non-cash programs may be operating as a disincentive to participation. More than eighty-five percent of those eligible for the federal EITC claim it,²⁴⁴ while less than sixty percent of those eligible for food stamps are enrolled in the program.²⁴⁵ While there are surely other factors at

241. EDIN & LEIN, *supra* note 37, at 10.

242. See, e.g., VERMONT AGENCY OF HUMAN SERVICES, COMMON APPLICATION, at <http://www.ahs.state.vt.us/CommonApp> (last visited March 29, 2002).

243. See EDIN & LEIN, *supra* note 37, at 148 (describing the careful record-keeping required of women on public assistance, including the need to keep track of rent and utility bills).

244. See ROBERT CHERRY & MAX SAWICKY, ECON. POL'Y INST., GIVING TAX CREDIT WHERE CREDIT IS DUE: A "UNIVERSAL UNIFIED CHILD CREDIT" THAT EXPANDS THE EITC AND CUTS TAXES FOR WORKING FAMILIES 3, <http://www.epinet.org/briefingpapers/EITC%20BP.pdf>. (Apr. 2000).

245. See Becker, *supra* note 239, at A1 (reporting that seventeen million people are enrolled in the food stamp program, while another twelve million are eligible but not enrolled).

work—including the stigma associated with food stamps, a lack of knowledge that one is eligible, and the bureaucratic hassles involved in claiming food stamps—part of the reason the EITC is used more often may be that it involves a simple cash transfer.

III. THE HUMAN DIGNITY ARGUMENT FOR CASH TRANSFERS

There is ample evidence in welfare history that the money payment made directly to the needy individual preserves his sense of dignity and pride

— United States Department of Health, Education, and Welfare, January, 1969²⁴⁶

Cash transfers are not only the most cost-effective form of public assistance; they are also the best way to avoid injury to the individual recipient's dignity. Even those who argue for restricted transfers or in-kind aid generally concede that cash transfers are more in keeping with our conception of what it means to be an equal citizen in a free society. As Steven Kelman has noted,

Cash transfers . . . respect the right to liberty by giving beneficiaries greater choice about how to use the benefits provided them. If one values human beings, one values the features that constitute them. In particular, one values those features special to people, such as the ability to choose, an ability that is unique and miraculous. These arguments create a presumption in favor of cash transfers . . .²⁴⁷

Advocates of cash transfers appeal to this political ideal. In introducing their proposal for an \$80,000 cash grant to each American, Bruce Ackerman and Anne Alstott explain, "Our vision of economic citizenship is rooted in the classical liberal tradition. It is up to each citizen—not the government—to decide how she will use her fair share of the nation's patrimony."²⁴⁸

These are more than abstract ideals. Social science research suggests that the amount of consumer choice a person has directly impacts how powerful he feels and how able he is to develop a strong personal identity. Psychological studies

246. *Roberts v. Harder*, 320 F. Supp. 1313, 1315 (D. Conn. 1970), *aff'd*, 440 F.2d 1229 (2d Cir. 1971), *vacated and rev'd on other grounds*, 405 U.S. 1037 (1972) (citing U.S. Department of Health, Education, and Welfare Report to House Ways and Means Committee and Senate Finance Committee).

247. Kelman, *supra* note 169, at 65.

248. ACKERMAN & ALSTOTT, *supra* note 14, at 3.

have found that the less control a person has over his life, as measured in part by the opportunities he has to make choices, the less powerful he will feel.²⁴⁹ That feeling of powerlessness is not good for the individual, nor is it good for a society in which the legitimacy of decisionmaking depends on equal participation. The ability to make consumer choices is also linked to the formation of personal identity. As anthropologist and consumer studies expert Grant McCracken has observed, "One of the ways individuals satisfy the freedom and fulfill [the] responsibility of self-definition is through the systematic appropriation of the meaningful properties of goods."²⁵⁰ McCracken describes three common ways in which we transfer meaning from consumer goods to ourselves: exchange rituals (in which gifts are used to express something about the personal identities of the giver and the receiver); possession rituals (such as "personalizing" one's home by displaying certain belongings); and grooming rituals (where clothes, hair products, and even cars are used to help create one's identity).²⁵¹ The implication is that, without the opportunity to make these spending choices for oneself, a person will find it more difficult to develop a strong sense of personal identity.

Social stigma is another major source of harm to the dignity of the public assistance recipient. Any time a person reveals herself to others as the recipient of public assistance, she is at risk of being looked down upon or demeaned by others. Cash transfers carry no stigma because all dollar bills look alike, but stigma problems routinely occur when a public assistance recipient is forced to seek in-kind aid or use a coupon-style voucher in a very public place. Stories about the stigma of using paper food stamps in the grocery store, for example, are legion. Here are just a few.

You really do have to be a strong person to be able to use Food Stamps and not get intimidated by how people treat you when you

249. See ALWITT & DONLEY, *supra* note 173, at 67 (reporting the findings of numerous psychological studies on this point).

250. Grant McCracken, *Culture and Consumption: A Theoretical Account of the Structure and Movement of the Cultural Meaning of Consumer Goods*, 13 J. CONSUMER RES. 71, 80 (1986); see also SENNETT & COBB, *supra* note 204, at 258 ("[M]aterial things are aids to creating an inner self which is complex, variegated, not easily fathomed by others . . ."); ZELIZER, *supra* note 37, at 212 ("[P]eople employ goods simultaneously as markers of their social rank, as indicators of other shared collective identities, and as signals of their individuality.").

251. See McCracken, *supra* note 250, at 78-80.

use them. And even then it's still hard. You feel people's vibes, you know, in the line.²⁵² And the checkout people are almost without exception rude

It's absolutely blatant in the stores. They'll smile and be chatting with you, and then they see you pull out the Food Stamps—they just freeze up. And they scrutinize the food.²⁵³

[W]hen you go to the supermarket I get that different treatment when I pull out the food stamps and people look at you and say you're on ADC and you're not trying to better yourself—and then I feel bad, I want to cry[,] I want to tell them don't look like that—you don't know what's going on in our life!²⁵⁴

While the stigma effect of using food stamps has been somewhat alleviated by the now nearly completed shift from paper stamps to Electronic Benefit Transfers (EBTs),²⁵⁵ EBTs still present some stigma problems, because an EBT card, like paper food stamps, may reveal its holder to be a recipient of public assistance. Nor is stigma a problem confined to food stamps. People report similar experiences with Medicaid cards,²⁵⁶ school lunch programs,²⁵⁷ and subsidized housing.²⁵⁸ Among housing programs, living in public housing probably presents the greatest stigma problems, as anyone who has grown up in "the projects" can attest. After all, it is difficult to keep people from knowing where you live. Housing vouchers can also be a source of stigma since at a minimum, public assistance recipients must inform prospective landlords that they have vouchers.

Stigma is particularly difficult for children, both because their egos tend to be somewhat fragile and because children are

252. MARK ROBERT RANK, *LIVING ON THE EDGE: THE REALITIES OF WELFARE IN AMERICA* 137 (1994) (quoting a food stamp recipient).

253. *Id.* at 138 (quoting a food stamp recipient).

254. POLAKOW, *supra* note 171, at 69 (quoting a food stamp recipient).

255. See 7 U.S.C. § 2016(i) (2000), amended by Act of Feb. 11, 2000, 7 U.S.C.S. § 2016 (Law Co-op. Supp. 2000) (noting that food stamps will be converted from paper form to EBTs by 2002).

256. See RANK, *supra* note 252, at 139.

257. See *id.* at 139-40; REBECCA BLANK, *IT TAKES A NATION: A NEW AGENDA FOR FIGHTING POVERTY* 106 (1997) (explaining how children who take advantage of the school lunch programs are "clearly visible as public aid recipient"); Carey Goldberg, *Working Hard, Doing Well, Less Than Excited About Bush's Tax Plan*, N.Y. TIMES, Apr. 8, 2001, at 16 (reporting on a conversation with a woman who "remembers the shame . . . of having a pink lunch ticket, showing that her lunch, unlike most of the other children's, was subsidized because her family was poor. . . . 'Why should any child have to go through that?' she asked.").

258. See BLANK, *supra* note 257, at 106.

generally quick to identify differences and use them as a reason to tease or taunt others.²⁵⁹ Yet those who advocate restricted transfers often rationalize that choice by citing a concern about protecting children.²⁶⁰

Harm to dignity also appears in forms not directly related to stigma or more general psychological effects. Harm may come at the hands of the government official or charity worker administering the aid. As one woman described it, "It's a fight to keep your self-esteem up. . . . You go to your social worker and they treat you like nothing."²⁶¹ This problem could theoretically be solved with a change in attitude of the people involved in administering the aid, but changing the mindset in a bureaucracy is notoriously difficult. Admittedly, this is a problem that persists even with cash transfers, since any means-tested program will necessarily require some interaction with some bureaucracy. But if multiple programs were streamlined and consolidated into a single cash transfer, the amount of interaction required with people administering the aid would likely be reduced.

Another dignity harm associated with restricted transfers and in-kind aid comes from the limits they place on the recipient's ability to wield economic power. The best example of this is in the rental housing setting. In many states, if a landlord does not comply with legal requirements to keep the apartment in a certain condition, the tenant has the right to withhold rent.²⁶² If the tenant relies on a third party, such as the government, to pay all or part of the rent, she cannot threaten to withhold payment as a means of forcing her landlord to comply with the law. While the third party may be able to do so on her behalf, the threat is not quite as powerful as if the tenant could make it herself. "I won't pay rent until you get the heat working again" is a more dignified and credible threat than "I'm go-

259. See, e.g., *supra* text preceding note 1.

260. See *infra* note 323.

261. ALWITT & DONLEY, *supra* note 173, at 12 (1996) (quoting Joe Davidson, *Welfare Mothers Stress Importance of Building Self-Esteem if Aid System is to Be Restructured*, WALL ST. J., May 12, 1995, at A14); see also EDIN & LEIN, *supra* note 37, at 139 ("They treat you like an animal . . ."); *id.* at 140 ("They make you feel like dirt in the street."); POLAKOW, *supra* note 171, at 84 ("I went up and they were so snotty—they made me feel really degraded being in there—like I was asking for something I didn't deserve.").

262. See JESSE DUKEMINIER & JAMES E. KRIER, PROPERTY 527 (4th ed. 1998) (explaining that a tenant may withhold rent as a remedy for a landlord's breach of the implied warranty of habitability).

ing to call the housing authority and ask them to stop paying rent." Of course, it is conceivable that the landlord would feel more threatened by a phone call from the local housing authority if he had a number of Section 8 tenants and was concerned about losing their payments as well. But that scenario requires a highly responsive housing authority. The situation is even worse with in-kind housing assistance. A tenant in public housing is almost completely at the mercy of the housing authority. Since the housing authority is also the landlord, the only immediate loss it incurs from not keeping the apartment in good shape is whatever small monthly payments the tenant is required to make.

Finally, limiting parents' access to cash can deprive them of the dignity of being able to provide things for their children. Parents like to be able to buy nice things for their kids, and worry that not being able to do so will affect how their children perceive them. Parents also want to be able to pass along some spending power to their children.²⁶³ More generally, as Juliet Schor has noted, "In a culture where consuming means so much, not having money is a profound social disability. For parents, faced with the desires of their children, the failure can feel overwhelming."²⁶⁴ The feeling is particularly overwhelming when the main resources available to parents to satisfy their children's varying desires are vouchers and in-kind aid, rather than cash.

The significance of the dignity value of cash transfers is underscored by its recurrence as a theme in the evolution of public assistance in America. In some ways, we have evolved a great deal from the earliest days of our nation's history, when people who received "poor relief" were required by law to wear a "P" on their sleeves to identify themselves as paupers.²⁶⁵ While throughout the nineteenth century, most relief came in the form of in-kind aid or vouchers from the state and private charities,²⁶⁶ there was a shift in thinking around the turn of the twentieth century. Cash assistance became more common, with the "old method" of orders for groceries or gifts of goods [viewed] as 'undemocratic and harmful to the character of the

263. Researchers have found that one use of the EITC is to provide pocket money for the children. See Romich & Weisner, *supra* note 14, at 1259.

264. SCHOR, *supra* note 189, at 39.

265. ZUCCHINO, *supra* note 37, at 63 (describing the first General Poor Law enacted in Pennsylvania).

266. See ZELIZER, *supra* note 37, at 120-21.

recipient” by many private and public agencies.²⁶⁷ Much of the rhetoric about public assistance in the Progressive Era and the 1920s focused on dignity concerns. As Princeton sociologist Viviana Zelizer recounts,

[F]reedom of consumption was declared by the noted consumer-economist Hazel Kyrk to be “as well-established a principle as freedom of conscience.” Even when it improved the quality of consumption, any sort of authoritative regulation, therefore, violated the basic right of “choosing the instruments of material life.” Regulated consumption, Kyrk explained, degraded individualized choice into a method “analogous to the feeding, clothing, and amusing of the children of a household, of the soldiers of an army, or the inmates of a reformatory.”²⁶⁸

New Deal legislation continued this theme of choice and dignity. As one observer noted on the occasion of the twentieth anniversary of the Social Security Act, which created Social Security and Aid to Dependent Children (later renamed Aid to Families with Dependent Children),

[T]he act affirmed the dignity and responsibility of recipients by specifying that aid was to be given in the form of money, which the receiver was free to spend as he or she deemed best, rather than as aid in kind, such as orders for groceries or fuel, which too often reflected condescension and unwarranted suspicion in past relief administration.²⁶⁹

Spurred in part by claims that many AFDC recipients mismanaged their money, restricted transfers and in-kind aid soon reemerged as the dominant forms of assistance.²⁷⁰ Programs enacted in the 1960s as part of President Lyndon Johnson’s “War on Poverty” tended to be restricted transfers or in-kind aid, including housing and health care programs. President Nixon presided over an expansion of the Food Stamp program,²⁷¹ although he also advocated broad-based cash assistance.²⁷² Although dignity rhetoric was employed in the welfare rights movement of the 1960s and 1970s,²⁷³ that

267. See *id.* at 145 (quoting REPORT OF THE NEW YORK STATE COMMISSION ON RELIEF FOR WIDOWED MOTHERS, 122-23 (1914)).

268. *Id.* at 148 (quoting HAZEL KYRK, A THEORY OF CONSUMPTION 40, 290 (1923)).

269. Wilbur J. Cohen, *Social Security Objectives and Achievements*, SOC. SEC. BULL., Aug., 1955 at 2.

270. See ZELIZER, *supra* note 37, at 194-95.

271. See MOYNIHAN, *supra* note 144, at 121-22.

272. See *supra* text accompanying note 142.

273. See DAVIS, *supra* note 169, at 45 (reporting that one of the four stated goals of the National Welfare Rights Organization in 1967 was “Dignity: A system that guarantees recipients the full freedoms, rights, and respect as all

movement ultimately failed to achieve its central goal of establishing substantive rights to public assistance.²⁷⁴ Dignity has since resurfaced in the discussion of food stamp cash-outs. In advocating cash-outs, states have cited not only the reduced administrative costs, but also the desire to end the stigma associated with food stamps.²⁷⁵

The theme of dignity also runs through the history of constraints on women's ability to make spending choices. Until the early twentieth century, most middle- and upper-class American women had no direct control of cash money and had to seek their husbands' permission for purchases they wished to make.²⁷⁶ Many women resisted this, often using similar techniques to those public assistance recipients use today to get cash out of a more constraining system. For example, women would ask merchants to overcharge them for an approved purchase, and give them the difference in cash.²⁷⁷ The women's movement fought for a change in this system, decrying the indignity of a woman having no money to spend as she wished. As the *Ladies' Home Journal* stated in 1925, "There is no liberty without some money that belongs to us and not to a budget."²⁷⁸ Charles Zueblin, a sociologist of the time, similarly observed that by controlling the cash, the husband controlled "not only the economic but the spiritual life of his wife."²⁷⁹ The same forms of paternalistic controls are at work today; only the targeted population has shifted. We now trust middle-class women to spend money, but not poor women and their children, who are among the main beneficiaries of many public assistance programs.

IV. RESPONSES TO COMMON OBJECTIONS

There are five main objections to cash-based public assistance, each of which will be addressed in turn. The first, and by far most common, is that people will waste the money. The

American citizens").

274. See *Dandridge v. Williams*, 397 U.S. 471, 487 (1970).

275. See *Debate Stirs As States 'Cash Out' Food Stamps*, CHI. TRIB., Mar. 8, 1994, § 1 at 3 [hereinafter *Debate Stirs*].

276. See ZELIZER, *supra* note 37, at 38, 48-51.

277. See *id.* at 45-47.

278. *Id.* at 55 (quoting Alice Ames Winter, *The Family Purse*, LADIES' HOME J., May 1925, at 35, 185).

279. *Id.* at 50 (quoting Charles Zueblin, *The Effect on Woman of Economic Dependence*, 14 AM. J. SOC. 606, 609 (1909)).

second objection is that the paternalism of restricted transfers may be warranted when the aid is meant to benefit children because one cannot guarantee that parents will spend cash on their children. The third objection is that cash assistance is to be avoided precisely because it is more useful, and therefore weakens the recipient's motivation to find a job and get off public assistance altogether. The fourth objection is that by allowing public assistance to be spent on goods beyond the "basic necessities," we fuel a consumerist culture that is already too rampant in modern-day America. Finally, opponents argue that even if cash assistance is smart policy, it is politically unworkable. This last objection will be addressed in the conclusion.

Objection 1: People will not spend the money wisely. The most common objection to cash transfers is the concern that many lower-income people will spend their money in foolish or harmful ways.²⁸⁰ Graetz and Mashaw call this "consumption hazard,"²⁸¹ and consider it such an overwhelming concern that while they admit the problem may be exaggerated, it is part of their rationale for proposing restricted transfers to lower-income families instead of cash.²⁸² It is undoubtedly true that some people will spend their money in ways that even they will regret. But this consumption hazard is not as great as one might think. Lower-income people tend to be *more* careful than others with their money, not less. Basic economics suggests why: Money has a declining marginal utility; the value of an extra dollar to Bill Gates is much less than the value of an extra dollar to the janitor who cleans his office at night. If people at the lower end of the economic scale value each additional dollar more, they also have more to lose if they waste it. As economist Jan Newton has observed,

For a more affluent consumer, discovering that one has been "had" in the marketplace may be a source of irritation, embarrassment, or amusement. For poor families, getting less than the best deal can affect the amount of food to be had for the week or the adequacy of win-

280. See, e.g., Robert Greenstein, *Universal and Targeted Approaches to Relieving Poverty: An Alternative View*, in *THE URBAN UNDERCLASS* 437, 452 (Christopher Jencks & Paul E. Peterson eds., 1991) ("Programs for the non-elderly poor seem to be weaker politically when benefits are provided in cash. The public may fear its tax dollars will go for alcohol, drugs, new cars, or extravagances rather than for food or medical treatment or other purposes deemed worthy of support.").

281. GRAETZ & MASHAW, *supra* note 126, at 49.

282. *Id.* at 238-39.

ter shoes and coats for school children.²⁸³

Empirical evidence exists to support this theoretical prediction. A recent study of grocery shopping behavior found that people who lived in larger, more expensive homes paid less attention to prices than those with fewer economic resources.²⁸⁴ Another study of food spending found that lower-income households used their limited resources wisely, eating out much less than other families and saving money "by preparing foods from scratch and avoiding convenience foods."²⁸⁵ More generally, studies of spending patterns of lower-income families suggest that, as one would expect, they spend larger shares than other families of their income on basic needs, and relatively little on "nonnecessary" items.²⁸⁶ Edin and Lein, in their study of low-income women, found that "more than a third of families spent nothing whatsoever on entertainment during the previous year; two-thirds never ate out; nearly half spent nothing on cigarettes or alcohol during the year; and four-fifths went without cable television."²⁸⁷ Moreover, in the few cases where consumption hazard is a real problem, avoiding cash-based assistance will not necessarily solve it. Even within a restricted transfer and in-kind system, people will find ways to use public assistance to get the things they really want, for example, by converting food stamps to cash on the black market.²⁸⁸

Consumption hazard is also a dangerous measure to use because it is blatantly paternalistic. Since, as noted above, lower-income people are no more likely than wealthier people to make unwise purchases, restricted forms of public assistance unfairly hold lower-income people to a higher behavioral standard.²⁸⁹ It is functionally no different than a system that imposes very high taxes on wealthier people, then returns the money to the very same wealthy people through a package of vouchers that force them to spend the money properly. Most people would regard this as unthinkable, yet there is no question that wealthy people waste money. As one lower-income

283. Jan M. Newton, *Economic Rationality of the Poor*, 36 HUM. ORG. 50, 58 (1977).

284. Stephen J. Hoch & Byung-Do Kim, *Determinants of Store-Level Price Elasticity*, 32 J. MARKETING RES. 17, 28 (1995).

285. ALWITT & DONLEY, *supra* note 173, at 76.

286. See Lucilla Tan, *Spending Patterns of Public-Assisted Families*, MONTHLY LAB. REV., May 2000, at 33-34.

287. EDIN & LEIN, *supra* note 37, at 280 n.7.

288. See *supra* notes 232-35 and accompanying text.

289. See *supra* Part III.

woman put it, "if you want to see how people spend their money on things they don't need, and don't know much about what they are getting, and buy it even so without thinking ahead, you'd better go study rich folks. If I wasted money like that, I'd be dead"²⁹⁰ The key question in evaluating the merits of cash transfers should therefore not be the simplistic one of whether there is some consumption hazard. Clearly some limited number of lower-income people will waste their money. Instead, the central question should be, would the overall benefits (the cost-effectiveness and dignity gains to many people) outweigh the costs (some increased waste by a limited number of people) resulting from the move to a cash-based system? This utilitarian-style approach is, after all, fairly moderate, considering that rights-based advocates have argued for cash transfers independent of the amount of waste because they believe recipients have an absolute right to the transfer.²⁹¹

As with many cost-benefit analyses of public policy issues, there is no easy way to assign quantitative values to each part of the equation. Parts II and III of this Essay sought to demonstrate that the benefits of a cash-based system are substantial. The question to explore here, then, is how much waste will there be? There is no easy way to quantify it. The best we can do is look at some specific purchases that many people would consider wasteful, see how often lower-income people make them, and determine whether there is ever any utility generated by doing so. The specific purchases that will be examined here are drugs, alcohol, tobacco, lottery tickets, unhealthy food, and cable television.

Leading off most people's list of wasteful purchases would surely be drugs, alcohol, and tobacco. Ronald Reagan helped popularize these concerns about lower-income people in the 1980s, with his apocryphal tale of a man who used the change from his food stamps to buy vodka,²⁹² but the concerns have been around for a long time.²⁹³ The stereotypes do not hold up

290. Newton, *supra* note 283, at 50.

291. See ACKERMAN & ALSTOTT, *supra* note 14, at 9 ("Each individual citizen has a right to a fair share of the patrimony left by preceding generations. This right should not be contingent on how others use or misuse their stakes.").

292. MARK GREEN & GAIL MACCOLL, REAGAN'S REIGN OF ERROR: THE INSTANT NOSTALGIA EDITION 90 (2d ed. 1987).

293. See, e.g., MOYNIHAN, *supra* note 144, at 117 ("From the outset, [food stamps] involved a curious assemblage of motives and attitudes. . . . The desire to add dignity to the lives of the poor was . . . much in evidence, but so also

very well, however, when tested against the facts. Research suggests that lower-income people spend no greater share of their income on alcohol and tobacco than the general population, and less in total dollar terms.²⁹⁴ The data on drug use is more mixed, but hardly supports the claim of rampant use of hard drugs by lower-income people. Although people with family incomes under \$9000 per year are more likely than wealthier people to use drugs, this seems mainly attributable to a higher rate of marijuana use,²⁹⁵ not harder drugs like cocaine. Only 2.6% of people with family incomes below \$9000 have used cocaine in the last year,²⁹⁶ compared to 1.9% of wealthier people.²⁹⁷ Also, people in the \$9000-\$19,999 income bracket, which includes many families below the poverty level,²⁹⁸ are no more likely to use drugs than wealthier people.²⁹⁹ Further, research has shown that demand for drugs among non-addicts

was the concern that they might spend resources unwisely. Hence *food stamps*; no beer stamps.”); ZELIZER, *supra* note 37, at 131 (“A writer in *The Charities Review* pointedly cited an anecdote about a gift of 100,000 francs—in marked coins—given to the Paris poor by the Russian czar in a recent visit. A week later, most coins were allegedly found in taverns and wine shops.”).

294. See ALWITT & DONLEY, *supra* note 173, at 73 tbl.5.1 (finding that low-income households, defined as those with annual income under \$10,000, spend about 2% of their income on alcohol and tobacco, the same percentage as all households, but only \$309 per year, compared to \$592 for all households). Alwitt and Donley elsewhere suggest that low-income people buy more cigarettes, but attribute this in part to aggressive marketing in low-income neighborhoods by tobacco companies. See *id.* at 88.

295. See SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., U.S. DEP'T OF HEALTH & HUM. SERVS., NATIONAL HOUSEHOLD SURVEY ON DRUG ABUSE tbl.13.1 (1997) [hereinafter SURVEY ON DRUG ABUSE]. According to this survey, 16.6% of people with family incomes under \$9000 used drugs in the last year, compared to 10.9% of wealthier households, with 14.9% of those under \$9000 reporting marijuana use, compared to 8.7% of other households. See *id.* Figures for “other households” are weighted averages of usage rates for people in income brackets over \$9000, calculated by the Author.

296. *Id.* at tbl.13.1.

297. See *id.* (calculation by the Author, based on weighted average of usage rates for people in income brackets over \$9000).

298. See 2001 HHS Poverty Guidelines, 66 Fed. Reg. 10,695-10,697 (2001).

299. According to the author's calculation, using the weighted average of usage rates for people in income brackets over \$19,999, 10.9% of people with incomes over \$19,999 used drugs in the last year, compared to 11.2% of people with incomes of \$9000-\$19,999, a difference of only 0.3 percentage points. See SURVEY ON DRUG ABUSE, *supra* note 295; cf. Margaret E. Ensminger et al., *The Inner City and Drug Use: Initial Findings from an Epidemiological Study*, 48 DRUG & ALCOHOL DEPENDENCE 175, 180-81 (1997) (finding that people raised in a poor urban neighborhood were no more likely to start using drugs than a national sample).

does not tend to rise as people's incomes increase.³⁰⁰

So will cashing out public assistance suddenly drive up the consumption of alcohol, drugs, or cigarettes? Surely not. If lower-income people are currently consuming at roughly the same rate as the rest of the population, then the availability of cash cannot be what is motivating consumption. Cash transfers are unlikely, therefore, to be substantially wasted on the purchase of additional drugs, alcohol, or tobacco products.

In addition, there may be some limited amount of utility generated by the occasional use of some of these substances. There is no question, of course, that alcohol, drugs, and tobacco are often harmful to those who consume them, particularly in large quantities. But used in moderation, they may generate some utility. This utility can come in the form of social interaction; for example, going out drinking or sharing a cigarette with friends. Social drinking can also help alleviate stress, particularly for parents of small children. As one low-income mother explained,

Oh, sometimes, you know, just to relax or somethin', I just go out and have a few. And when I'm really low, I sometimes go out and tie one on, if you know what I mean. Sometimes I think I'll go crazy all day in the house if I can't get out once in a while. I just couldn't take it.³⁰¹

Adults may be more able to cope with their responsibilities in life, particularly their responsibilities toward their children, if they are less stressed, and there is no question that living life at a low income level can be enormously stressful.³⁰² This stress-reduction argument may apply only to alcohol, however, and of course only to moderate usage. Although some lower-income parents also use cigarettes to help them relax,³⁰³ scientific research suggests that, contrary to popular belief, smoking actually raises stress levels.³⁰⁴ Nor can one make a sensible argument for the social or relaxation value of drugs like heroin

300. See Nancy M. Petry, *Effects of Increasing Income on Polydrug Use: A Comparison of Heroin, Cocaine and Alcohol Abusers*, 95 ADDICTION 705, 714 (2000).

301. EDIN & LEIN, *supra* note 37, at 31.

302. See MAYER, *supra* note 116, at 48 (describing the "parental-stress" theory of public assistance, which suggests that "transferring income to poor families should alleviate stress, improve parenting, and thus improve children's outcomes").

303. See *supra* text accompanying note 183.

304. See NAT'L CLEARINGHOUSE FOR ALCOHOL & DRUG INFO., U.S. DEPT OF HEALTH & HUM. SERVS., STRAIGHT FACTS ABOUT DRUGS AND ALCOHOL, at <http://www.health.org/govpubs/rpo884> (last visited March 29, 2002).

and cocaine, since they are highly hazardous to the health and foster debilitating addictions. In any case, one need not endorse the controversial view that moderate amounts of alcohol or any other substance can generate utility in order to support cash-based public assistance. If the policy goal is to curb substance abuse, more effective prevention strategies and law enforcement are solutions much better targeted at the problem than restricted transfers or in-kind aid would be.

Lottery tickets are another item on which many people believe lower-income people waste their money. As with alcohol, tobacco, and drugs, public perception is not very accurate. As it turns out, lower-income people are *less* likely than others to buy lottery tickets.³⁰⁵ The reason the lottery is nonetheless considered a regressive form of revenue raising is partly that while lower-income people spend less per person on lottery tickets than middle-income people, lottery spending may consume a greater share of their income.³⁰⁶ In addition, high-income people are less likely than middle-income people to buy tickets,³⁰⁷ and therefore end up paying little into this system of revenue raising. Of course, many people consider any money spent on lottery tickets to be wasted. For some, this is because they believe gambling is immoral. But if that is the problem, the solution should be to ban the lottery altogether or engage in public campaigns to discourage participation, not to keep cash out of certain people's hands. Others argue that since the expected payoff is always less than the face value, lottery tickets are a foolish investment. The flaw in this argument is that it ignores a key benefit of lottery tickets, which is that for many people, the tickets are a way of buying hope. Admittedly, this is a very controversial claim, but it does describe the role that lottery tickets play in the lives of many lower-income people. As a homeless man who lives in Manhattan explains, "I spend \$9 to \$10 every day on the lottery. . . . Like everyone else, I want to get a better life. I got a feeling one of these days I might hit."³⁰⁸ For many people who rely on low wages or public

305. See MEDIAMARK RES. INC., MEDIAMARK RES. SPORTS & RECREATION REPORT: SPRING 1996, at 216; see also ALWITT & DONLEY, *supra* note 173, at 89 (noting that poor people are less likely to gamble in general, whether at a casino or by playing the lottery).

306. See Philip L. Hersch & Gerald S. McDougall, *Do People Put Their Money Where Their Votes Are? The Case of Lottery Tickets*, 56 S. ECON. J. 32, 35 n.11 (1989).

307. See *id.* at 35-36.

308. James Fallows, *The Invisible Poor*, N.Y. TIMES MAG., Mar. 19, 2000,

assistance to get by, winning the lottery may be the only way to bring about a substantial change in their economic circumstances, particularly given how limited income mobility is in the United States today.³⁰⁹ The people who benefit least from this aspect of the lottery are very wealthy people, so it should not be surprising that they buy fewer lottery tickets than middle-income people. Also, lower-income people, when they do buy lottery tickets, tend to prefer immediate payoff, small-prize games.³¹⁰ This makes sense; the smaller prizes will be more valuable to them because they have less to start with,³¹¹ and they are more likely to need money right away.

Lottery tickets therefore can generate some utility for the lower-income consumer. They also are predominantly a middle-income purchase, not something that poor (or rich) people spend much money on, by comparison. As a result, the risk that cash transfers to lower-income people will generate significant waste due to the purchase of lottery tickets seems low.

A third category of potentially wasteful purchases is unhealthy food, including fast food and junk food. Current food programs restrict the consumption of these foods to a certain extent. In-kind programs, such as school lunches and soup kitchen meals, are clearly the most constraining, since they offer recipients virtually no choice about what they eat. Voucher programs also impose some limits on the type of food consumed. Food stamps cannot be used at restaurants or to buy prepared hot foods at the grocery store (although they can be used for junk food and other high-fat foods),³¹² and WIC limits food purchases to a very specific list of groceries, sometimes even specifying which brands to buy.³¹³ Some might fear that if these programs were cashed out, public assistance recipients' diets would deteriorate. Indeed, a recent survey found that non-poor people believe poor people spend relatively more than other families in two of four "unhealthy" food categories included in

at 68, 76; cf. EDIN & LEIN, *supra* note 37, at 30 (listing lottery tickets among the purchases that low-income women make to keep themselves from feeling "completely on the bottom," or that their lives were "completely hopeless.").

309. See Michael M. Weinstein, *America's Rags-to-Riches Myth*, N.Y. TIMES, Feb. 18, 2000, at A28.

310. See Donald I. Price & E. Shawn Novak, *The Income Redistribution Effects of Texas State Lottery Games*, 28 PUB. FIN. REV. 82, 89 (2000).

311. See *supra* text preceding note 283 on the declining marginal utility of money.

312. See 7 U.S.C. § 2012(g)(1) (2000).

313. See ALWITT & DONLEY, *supra* note 173, at 79.

the survey: snacks and frankfurters.³¹⁴ As it turns out, however, lower-income people are *less* likely than wealthier people to consume fast food or junk food.³¹⁵ Moreover, as with some other potentially wasteful items, when low-income people do buy fast food or junk food, they generate some utility in the process. The utility comes from the pleasure of being able to treat oneself, or one's child, to something special every once in a while. Edin and Lein found in their study of low-income mothers that "Good mothers, [respondents] believed, should treat their children on occasion. Consequently, some mothers would occasionally forgo necessities to pay for . . . a trip to a fast food restaurant"³¹⁶ Again, it is difficult to see the potential for rampant waste here; lower-income people are not buying many of these "wasteful" foods, and when they do buy them, the purchase may serve a useful purpose.

The last example of potentially wasteful purchases is cable television. Politicians have cited cable TV as an example of a frivolous expense; in 1995, congressional leaders seeking to cut back on student financial aid asserted that the increased debt burden would be no greater than a cable TV subscription, implying that canceling the subscription would be no big deal.³¹⁷ There are a couple of reasons why this might not be the case. First, cable TV is often necessary in order to get any kind of television reception in many communities. Seeing cable TV as

314. *Id.* at 77 tbl.5.3.

315. *Id.* at 74, 75 tbl.5.2 (reporting that poor households eat out much less than other families, and spend less on cookies, crackers, candy, chips, nuts, other snacks, and prepared foods). There is some evidence, however, that obesity may be correlated with lower incomes. See David Barboza, *Rampant Obesity, A Debilitating Reality for the Urban Poor*, N.Y. TIMES, Dec. 26, 2000, at F5.

316. EDIN & LEIN, *supra* note 37, at 7-8; see also ZUCCHINO, *supra* note 37, at 176, 182-83 (describing a woman's reasons for agreeing to take her grandson to McDonald's even though she did not feel that she had the money); Carey Goldberg, *Working Hard, Doing Well, Less Than Excited About Bush's Tax Plan*, N.Y. TIMES, Apr. 8, 2001, at 6 (quoting a woman with a household income of less than \$50,000 a year who criticizes the Bush tax plan for giving too much money to families like hers and too little to the typical welfare mother who could use the money to "take her child to McDonald's, something we all take for granted"); Janofsky, *supra* note 187 (describing the food spending of a working woman raising two children and a grandchild on a low income and food stamps, saying "[t]he biggest treat she gives the family is a rare evening at McDonald's. . . .").

317. See William F. Goodling & Howard McKeon, Editorial, *Making College Loans Fair*, WASH. POST, Apr. 21, 1995, at A27 (editorial by the then-chairman of the House Economic Opportunities Committee and the chairman of the subcommittee on post-secondary education).

a waste in those situations, therefore, requires regarding television, the primary source of entertainment and news in America today, as a waste. Second, for many parents, cable TV is a means of making the home a more attractive place for children to spend their time. As Edin and Lein learned in their study of low-income mothers, "[A] cable television subscription is a relatively inexpensive way for mothers to keep their children off the streets and away from undesirable peers."³¹⁸ Nonetheless, Edin and Lein found that many families could not afford cable; as noted earlier, only one out of every five women studied was able to fit cable into her family budget.³¹⁹ Once again, rampant waste does not seem to be a real concern here.

Why is it, then, that as Alwitt and Donley put it, so many "affluent people . . . just assume the poor throw money away on chips, candy, and liquor,"³²⁰ as well as drugs, cigarettes, lottery tickets, and cable TV? A big part of the reason may be the considerable social distance between people of different incomes. Many wealthier people do not interact with lower-income people on a regular basis in a way that gives them a complete picture of what their lives and their spending patterns are really like. Instead, they get a skewed vision, from a number of sources, as Edin and Lein explain:

Average Americans depend on newspapers, magazines, television, and radio for their information about public policy issues. Journalists and their editors, in turn, publicize those stories that they think will attract the most interest or outrage. Thus, the public has been influenced by stories of welfare queens who used their ill-gotten gain to buy fancy cars and vacation homes or of mothers who exchanged AFDC and food stamps for crack or heroin while their children huddled in filthy unheated hovels.

A lot of Americans also depend on the reports of friends and relatives who have more direct contact with the poor—those whom Michael Lipsky terms "street level bureaucrats": police officers, social workers, and others whose professional lives place them in close contact with those mothers who are having the most difficulty surviving the harsh world of subsistence living. Finally, ordinary citizens often form opinions based on their own observations in the grocery store, where they inspect the carts of those mothers who pay with food stamps, or when they drive by street corners of poor neighborhoods and see working-aged adults loitering.³²¹

318. EDIN & LEIN, *supra* note 37, at 8.

319. *See id.* at 280 n.7.

320. ALWITT & DONLEY, *supra* note 173, at 4.

321. EDIN & LEIN, *supra* note 37, at 219-20 (citation omitted); *cf.* ZUCCHINO, *supra* note 37, at 211-12. Zucchini offers this illustration:

In each of these situations, only a partial picture is coming through, except possibly when people examine the grocery carts of food stamp recipients. Even then, though, what people see may be affected by a common cognitive dysfunction, which is the tendency to notice things that reinforce one's preexisting conception of the world.³²² In other words, if you are looking for a grocery cart with Cheetos in it, you will find it, and you will probably remember it more than the two carts next to it filled with rice and beans. Because of this social distance problem, we must be particularly vigilant in policing our own and others' preconceived notions about how lower-income people spend their money. There will be people who spend their cash transfers unwisely, but they will be much fewer and farther between than most people would imagine. In general, the benefits of providing cash transfers will far outweigh the minor losses that will come from giving people the freedom to spend.

*Objection 2: If the assistance is meant to benefit children, then in-kind aid or restricted transfers are justified because they help ensure that parents do not spend the money on themselves.*³²³ There are several reasons why this paternalistic justification is flawed. First of all, it is unlikely that a government or private institution could be better at anticipating and responding to an individual child's needs—that is, could be more “paternalistic”—than the parents themselves, at least in the vast majority of cases. Admittedly, some parents lack information about proper nutrition, for example, but that concern can be addressed through education, rather than through in-kind or

Cheri found a piece of folded paper tucked into her notebook. She unfolded it and began to laugh. It was a cartoon Willie Baptist had drawn and given to her. On one side of the paper Willie had drawn a half-naked man with wild hair, running madly down the street, ranting and raving, his eyes wide with fright. On the other side of the paper, he had drawn a picture of a house on fire. He had given the cartoons to Cheri after they had discussed ways to get people to see the whole picture of poor people and people on welfare. “You think a man running down the street is crazy until you realize his house has burned down,” Cheri said . . . “It’s the same way with people on welfare. You assume they’re lazy cheats until you see the whole picture of what’s happened in their lives.”

Id.

322. See LEON FESTINGER, A THEORY OF COGNITIVE DISSONANCE 149-52 (Stanford U. Press reissue 1962) (1957).

323. See, e.g., GRAETZ & MASHAW, *supra* note 126, at 230 (explaining that one “technique for assuring that public support actually benefits children and is not easily diverted by parents to other purposes is to provide benefits to families in-kind, rather than in cash”).

restricted transfers. Second, parents generally want what is best for their children and few would neglect their children's needs if they had more cash to spend. As a teacher in a poor school district observed,

We should not confuse families' inability to do with their desire to do. . . . One of the most astounding things to me since I've been here is how few parents there are—in fact I could only think of one or two if I thought real hard—that don't seem to care. Folks care. They want for their kids.³²⁴

The problems created by those few parents who do neglect their children can be addressed by the child welfare system; restricted transfers are not the only solution. Third, if some of the money directed at the support of a child is spent in a manner that improves the parent's quality of life in some way, this can end up benefiting the child as well. Simply put, happier parents tend to raise happier children.³²⁵ Separating a child's needs from her parent's needs is therefore quite difficult. Finally, on a practical level, since children's lives are so intertwined with their parents' lives, it may be difficult, even through in-kind aid or restricted transfers, to ensure that certain types of assistance actually benefit the child and not the parent.

*Objection 3: Because cash transfers are more useful and often less embarrassing to the recipient, they provide a lesser incentive for the recipient to seek a job and get off public assistance.*³²⁶ There are three responses to this objection. The first, and most important, is that the main determinant of the work

324. MAYER, *supra* note 116, at 150-51.

325. *Cf. id.* at 18.

326. See BLANK, *supra* note 257, at 106 ("[S]ome supporters of these programs believe that it is exactly this 'embarrassment' element that makes these programs more effective than cash assistance, since it provides an incentive for people to leave the program."). The objection is summarized by Mark Robert Rank:

Afraid that handouts will encourage dependency, assistance programs stigmatize those who receive benefits to prevent them from asking for more, and to make it clear to others that there is an emotional price to pay" . . . [T]his idea dates from the English Poor Laws, which postulated that if public relief were an attractive alternative to employment, people would choose relief over work.

RANK, *supra* note 252, at 129-30 (citation omitted); VAN PARIJS, *supra* note 17, at 247 n.24 ("[W]hat may be the most frequent argument for justifying in-kind welfare benefits . . . [is] that they will be better at filtering out the 'undeserving', those who are not truly needy, because of the stigma attached to collecting them." (citation omitted)); see also ZELIZER, *supra* note 37, at 132 (providing an example of this kind of thinking dating back to 1895).

disincentive is not what form the aid takes, but rather how much it is worth. Large amounts of aid, whether in the form of in-kind aid, vouchers, or cash, will create a much greater work disincentive than small amounts of aid. Cash may be more useful, but a person's decision about whether or not to seek work will largely be driven by whether or not she can achieve a higher standard of living by working. Second, if the concern is that people will use public assistance to avoid work, a much more direct solution would be to require able-bodied people to work in order to receive public assistance, as is increasingly being done.³²⁷ Constructing a complex system of in-kind aid and restricted transfers, by contrast, is a very inefficient way of combating work disincentives. The cost-effectiveness and dignity losses attach to everyone who receives public assistance, rather than just the subset of people for whom the availability of cash would make the critical difference in the decision about whether or not to work. Finally, the cost-effectiveness and dignity losses from a non-cash system spill over from this subset of non-working adults to their children. The child who gets mocked for trying to use a food stamp to pay for a field trip³²⁸ is the innocent victim of this "stigmatize-them-until-it-hurts" strategy.

Objection 4: Valuing the act of spending cash just fuels an already excessive consumerism in modern American society. It is certainly true that part of the motivation for cash transfers is to empower lower-income people as consumers and allow them to make the same range of choices that other people can make. And they will surely, like the rest of us, buy products they see advertised on television even when whatever they have at home would sometimes do just as well. But those who see the rampant consumerism in America as a societal problem³²⁹ should recognize the need for a society-wide solution; otherwise, those at the bottom will continue to be punished for the desires of those at the top. Not only is singling out lower-income consumers unfair;³³⁰ it is also a highly ineffective means

327. See *supra* text accompanying notes 2-4.

328. See *supra* text preceding note 1.

329. See, e.g., FRANK, *supra* note 192; SCHOR, *supra* note 189; cf. ACKERMAN & ALSTOTT, *supra* note 14, at 192 (acknowledging, but not endorsing, the critique that "something important has been lost in the shift to the modern marketplace of mass production and consumer choice").

330. Cf. Peter Coulombe, *Untitled*, in *WEALTH IS THE SMALLEST THING ON EARTH . . . : LIVING SPIRITUALLY IN A MATERIAL WORLD* 44 (United Church of Christ at Yale ed., 2000) (observations of a legal aid attorney, who argues that

of reducing consumerism. Depriving lower-income people of the ability to purchase a variety of consumer goods will not make them any less desirous of having them. As noted earlier, needs and desires in any society are determined in large part by what others have.³³¹ For example, as long as most Americans have VCRs, lower-income Americans will want to buy VCRs. Making it more difficult for them to do so, by limiting public assistance to non-cash forms, will not make them want VCRs less; it will just isolate them further socially. Those who wish to battle consumerism must strike instead at its source. Wherever that may be, it is certainly not in the small-scale purchases of the limited segment of the population that depends on public assistance.

CONCLUSION

Despite the cost-effectiveness and dignity-enhancing effects of cashing out public assistance, many people dismiss the idea as politically impossible. Part of the reason is that entrenched interest groups favor certain restricted transfers and in-kind aid; any attempt to dismantle food stamps or commodity-based food programs would surely meet resistance from the agricultural lobby, for example.³³² But the primary concern is that the public simply would not accept the idea of putting more cash into the hands of lower-income people.

So great is this concern that many people who say they support the idea of cash transfers in theory end up proposing restricted transfers. Graetz and Mashaw, for instance, reject a negative income tax partly because they feel people are more willing to transfer funds targeted at specific "basic necessities,"³³³ and add that "misuse of cash subsidies by a handful of

"we [cannot] ethically strive to relinquish our personal dependence on material things without simultaneously working toward a basic material sustenance for all").

331. See *supra* notes 198-211 and accompanying text.

332. See Fraker et al., *supra* note 215, at 390 ("Support for the [food stamp] program has also been generated by the ties between food and agriculture. Indeed, these ties explain in part why the program has consistently enjoyed the support of a number of relatively conservative Republican legislators from rural areas . . . who are not always supportive of low-income assistance programs in general."); *Debate Stirs*, *supra* note 275 (quoting then-Senate Agriculture Committee Chairman Patrick Leahy saying, of food stamp cash-outs, "Many members of Congress would be concerned that the \$22 billion they are providing to buy agricultural products would instead be used to buy anything from beer to movie tickets to floor mats.").

333. GRAETZ & MASHAW, *supra* note 126, at 49.

low-income parents threatens the political sustainability of subsidies for the entire population."³³⁴ Liberal critics of the cash-out experiments with food stamps have likewise suggested that cash-outs will end up hurting lower-income people by undermining public support for the program.³³⁵

In seeming contradiction to these claims about political opposition to cash transfers, however, the Earned Income Tax Credit has managed to gain a real foothold. From its inception, the federal EITC has enjoyed the support not only of Democrats, but also of Republican presidents, even if not of all Republicans in Congress;³³⁶ Gerald Ford signed it into law, Ronald Reagan supported it, and the current President Bush has spoken favorably about it.³³⁷ Republicans may not all share Democrats' enthusiasm for expanding the EITC, but they are not actively trying to get rid of it, either. And states are continuing to enact their own EITCs.³³⁸ At a time when other cash transfers seem to be politically unpopular, one might wonder why the EITC has managed to survive, and even flourish. The central reason must be that the EITC benefits people who work, and is not perceived as an outright handout. If this is the critical distinction, however, the fact that there are now work requirements for able-bodied food stamp recipients,³³⁹ for example, eliminates this as a reason to keep that program as a restricted transfer. In fact, the transformation of welfare programs into workfare programs may already be leading to renewed public support for cash-based assistance. Here is what the director of the Missouri Department of Social Services had to say in support of his state's proposal to cash out food stamps and AFDC and use the money to subsidize workfare jobs:

334. *Id.* at 239.

335. See *Debate Stirs*, *supra* note 275 ("Robert Greenstein, who ran the food-stamp program under President Jimmy Carter and now heads the Center on Budget and Policy Priorities, worries that the more food stamps look like a cash supplement, the more vulnerable they become.").

336. See Balanced Budget Act of 1995, H.R. 2491, 104th Cong. § 13201 (1995) (legislation passed by the Republican-controlled Congress, cutting back on the EITC).

337. See FRANK, *supra* note 192, at 256-57 (noting the support of Ford and Reagan); Tim Weiner, *Criticism Appears to Doom Republican Budget Tactic*, N.Y. TIMES, Oct. 1, 1999, at A20 (quoting then-Governor and presidential candidate George W. Bush criticizing congressional Republicans for their proposal to delay EITC payments, saying, "I don't think they ought to balance their budget on the backs of the poor.").

338. See *supra* note 158.

339. See *supra* note 4.

"We're not simply cashing out benefits, we're cashing out benefits into a wage. One day they have food stamps, the next day they have a paycheck. They have to make real-world decisions on how to spend their money."³⁴⁰ If others start to see public assistance in this light, the trend toward work requirements may become a trend toward cash-based assistance as well.

Those political leaders and charity officials who nonetheless still favor restricted transfers and in-kind aid should at least have the courage to consider the arguments in favor of cash transfers. By bringing cost-effectiveness and dignity concerns into the public debate, and by openly examining the realities of life at a low income, they may discover that their policies are grounded in misconceptions about how people spend their money. It is always difficult to change the public's mind about something, but it does help to have the facts on your side. All it should take to create public support for cash transfers is to convince people that their money is being wasted if they *don't* give it in cash, not if they do. This is a challenge well worth taking on.

340. *Debate Stirs*, *supra* note 275.

